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ABSTRACT

Since the 1989 United Nations Convention on the Rights of the Child, nations are obligated to submit regular reports to the international Expert Committee, which will require monitoring conditions for children. This study discusses the Norwegian Ombudsman for Children as a useful source of experience for other countries. Chapter 1 presents those trends in legal rights, child psychology, human rights, and public opinion that converged in the 1950s and 1960s to create an international concern for children's rights. Chapter 2 shows how in the last 10 to 15 years children have been seen as competent, active subjects, instead of passive objects. Chapter 3 describes developments in Norway that led to the establishment in 1981 of the Ombudsman for Children. Chapters 4 and 5 describe the establishment of and changes in the Ombudsman, its practical work, how cases were handled, and those elements and issues of developmental psychology that were most helpful in its work. Chapter 6 evaluates the Ombudsman in terms of its own goals and of government and public opinion. Chapter 7 discusses the principal facts contributing to the achievements of the Office, and how its experience might apply to other countries. Finally, Chapter 8 examines how the Norwegian Ombudsman might serve as a model to other countries, and examines whether child-related social science (developmental psychology in particular) can improve conditions for children in work conducted at a national level. The study contains approximately 200 references, five appendixes, the text of the United Nations Convention, and a list of publications. (TM)

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cahier 13

M.G. FLEKKØY

CHILDREN'S RIGHTS

Reflections on and consequences of the use of developmental psychology in working for the interests of children.
The Norwegian Ombudsman for Children: A practical experience.

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Gent, 1993

This book contains the complete text of the doctoral thesis to obtain the title of doctor in the Psychological and Pedagogical Sciences of the University of Gent (Promotor: Prof. Dr. E. Verhellen).
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Preface

M.G. Flekkøy defended on October the 4th 1991 her doctorate about children's Rights in a public session at the University of Gent. On this occasion she was conferred the title of Doctor in the Psychological and Educational Sciences.
It is indeed for me - as promotor - a great honour to be able to introduce the complete version of this doctorate published in book form.

The importance of fundamental research on children's rights, which takes shape here cannot be sufficiently stressed.
The subject deserves, especially because of its social importance, a prominent structural presence in an academic forum.

For a period of 8 years, M.G. Flekkøy acted as the Norwegian Ombudsman for children.
She was the first person in the world who has given shape to the promotion of interest of children in a structural way through her broad mandate which she has received of the Norwegian Government.
The most remarkable thing about this Ph.-D. thesis is the fact that a right balance is found between the rich - engaged - on the field obtained experience, and the qualification which such a scientific study demands.

We should like to take the opportunity to draw your attention not only to the excellent academic work that has been executed by Mrs. Flekkøy, but also to her personal involvement which we admire and praise.

This dissertation is presented here in the independent publication series of the Children's Rights Centre of the University of Gent.
We hope that through this study a larger public will become thoroughly acquainted with the pioneering work that M.G. Flekkøy has performed as the first Norwegian Child Ombudsman.

Gent, June 1, 1993 Prof. Dr. E. Verhellen

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I owe thanks to the outside investigators who carried out studies and asked questions difficult for me to ask. And I deeply appreciate the time and effort given by other workers in the area of child rights around the world, to supply information, partake in discussions, and review parts of this material.

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Without the suggestion of, support and encouragement, friendship and hospitality of Prof. Eugene Verhellen of the University of Ghent and his co-workers, particularly Frans Spiesschaert, this experience would never have been written out in a form which combines my professional background and my experience as an ombudsman. My gratitude also goes to the faculty members and the members of the commission, so willing to take on the extra work involved in reviewing this material. Writing it has been a personal as well as a professional challenge, for which I am grateful. I am also deeply thankful to Prof. Asbjørn Eide of the Institute of Human Rights in Oslo, for his spontaneous interest as well as his support as the work proceeded.

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Florence, June 14, 1991 Målfrid Grude Flekkøy

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Introduction

1. Purpose and scope

All countries now face the need to monitor conditions for children. States Parties to the United Nations Convention on the Rights of the Child (1989) have an obligation to submit regular reports to the international Expert Committee. But even countries that do not ratify, will be under increasing pressure to keep a sharper eye on conditions for children within their boundaries. How to monitor conditions for children is a main issue. In this context, the Norwegian Ombudsman for Children may be useful as a source of experience, perhaps particularly because it was established eight years before the adoption of the United Nations Convention on the Rights of the Child. It therefore demonstrates how a monitoring mechanism can work without any relation to an international instrument. Yet the work of the Ombudsman may have much in common with work that needs to be done in the context of the Convention. The ideas behind it, the principles of and the experiences of the Ombudsman may be useful in many countries, regardless of whether or not those countries have ratified the Convention.

The office of the Norwegian Ombudsman for Children was established in 1981, the first Office of its kind in the world. I served as ombudsman[1] from 1981 to 1989, the first psychologist to hold a position related to all the children of a country, focused on the problems of and preventive measures regarding the entire complex of conditions with impact on the development opportunities for children. The first eight years of experience were in many ways an experiment in finding new ways to work for the interests of children on a national level. The description of that experience constitutes the main material for this study. On the basis of this material the following main issues are addressed:

---

[1] Capital letters (Barneombud, Ombud, Office) indicate the institution as such, while barneombud or ombud refer to the person, i.e. myself or my successor. The distinction may at times seem arbitrary, but will then reflect my personal opinion as to whether it was the office or the person who took action, stated an opinion or was criticized.
The Norwegian words appear in the text, quoting other authors, who have, however, adopted the Norwegian usage of capitals/lowercase for this distinction.

1. To what extent can the experiences of the Norwegian Ombudsman for Children be useful in other countries, particularly as related to the United Nations Convention on the Rights of the Child?
2. Can child-related social science knowledge, developmental psychology in particular, be used effectively in order to improve conditions for children, in work carried out and measures taken on a national level?

This study is based on three distinct historical periods:

- before 1981 (when the Norwegian Ombudsman for Children was established);
- 1981-1989 (my terms in office);
- after 1989 (when the Convention on the Rights of the Child was adopted).

1.1. Before 1981

The historical developments and societal trends in Norway leading to the establishment of the Ombudsman for Children Office may have been country-specific, or they may reflect more general trends. If the trends are found to be universal, they should be conducive to work for children's rights in other countries, perhaps leading to similar efforts for children elsewhere. Since Norway was the first country to establish this specific kind of Office, what were the special reasons which led to the establishment of the first Ombudsman for Children in the world?

To answer this question I have:

a) traced and identified three historical trends (legal rights for children, the emergence of child psychology as a social science, and the human rights movement), which converged in the 1950s and 1960s. Specific rights for children emerged from this background as an issue of international concern (Chapter One).
Public views on children have changed from regarding children as *objects* (reflected in laws indicating 'how to treat them' in the best interest of society) to regarding children as *subjects* (laws indicating their own rights, based on "the best interest of the child", for the primary benefit of the children themselves and the secondary benefit of society). This trend demonstrates an increase in taking children themselves and their needs and characteristics as a main point of departure when discussing children's rights, i.e. connecting knowledge about children and rights for children. This shift also indicates a development towards perceiving the child as *active*, no longer only a passive recipient of care, but interacting as one partner in the dynamic feed-back systems with other individuals. The competence of children therefore is a key issue in discussions of children's rights, and one focus of this study (Chapter Two).

b) described main developments in Norwegian society in the past 50 years, the societal background of the 1980s, with the strengths and weaknesses which led to the establishment of the Ombudsman for Children at that specific period in time (Chapter Three).
These descriptions lead up to 1981.

1.2. The years 1981 to 1989

The description of the Norwegian experience covers the period 1981 to 1989. The establishment process and the practical work of the Office is described in detail, the changes that took place during the period and in particular which aspects or parts of the field of developmental psychology that were found useful in the work of the Office. (The formal frame of the Norwegian office and its work did not have developmental psychology as the explicit basis agreed upon). (Chapters Four and Five).

These chapters address questions such as:

- What are the characteristics of children as a group which necessitated a public spokesman on their behalf?
- Why an Ombudsman and not some other kind of institution?
- What were the reasons for:
  - changes in attitudes towards the Office from 1981 to 1989;
  - the achievements recorded during these years;
  - the difficulties encountered;

  i.e. the constraints and facilitating factors and how these effected the work and results of the period.

In relation to the use of psychological and other social science knowledge other questions are raised:

- How important was in fact the knowledge of developmental psychology?
- Could other knowledge have been as useful or better?
- Did the work of the Office disclose areas of "lack of knowledge", i.e. could the Office supply suggestions for new or expanded social science research in one or more areas?

After eight years, developments and trends could be traced which had not been evident before. Other Ombudsman-similar offices had been established in other countries. Chapter Six attempts to address issues such as:

- Were there specific or tacit principles guiding the work of the Office which might be considered crucial to the results obtained?
- How could the Office have been strengthened in order to have more impact?

The answers to these issues will be relevant to other ways of working for children. Therefore it is also of interest to see how the Norwegian Ombudsman for Children compares with other efforts in child advocacy and whether comparison can reveal principles applicable to other models. Comparison seeks to answer questions such as:

- Would an Ombudsman for Children, set up like the Norwegian one, work in other parts of the world?
- Can other ways of working for the rights of children be compared with the Ombudsman, and what do they have in common?
- Do other ways of working for children have advantages which the Ombudsman model does not have?

1.3. After 1989

The year 1989 opened a new era for children's rights, with the adoption of the United Nations Convention on the Rights of the Child. The Ombudsman for Children was established to work for the *interests* of children. While the term "rights" is only mentioned once in the Act and not in the paragraph describing the general aims of the Office, there is a close connection between working for the interests and the rights of children. The last part of this study therefore looks to the future.

The experience of the Norwegian Ombudsman for Children gained international significance in relation to the Convention. The impact of the Convention will depend on implementation. Careful monitoring of conditions for children will be necessary on a country, regional and global basis. Both States Parties and nations which have not ratified the Convention will be under scrutiny and will need to establish a mechanism to monitor the conditions for children against the standards laid down in the Convention. The Norwegian Ombudsman for Children offers one possible approach. Other approaches in other countries offer similar or different experiences, but the vast majority of countries as yet have nothing comparable to the Ombudsman for Children. Particularly for developing countries, the notion of an institution of this kind may *seem* more farfetched and foreign than need be. Questions raised in this context are:

- Which of the experiences of the Norwegian Ombudsman for Children can be useful in work for the interests of children in other countries?
- What variations or changes might make this model more suitable in other settings? Or are there principles for the work which are important as considerations or guidelines for similar attempts being made or planned elsewhere?
- How can the Convention on the Rights of the Child be related to these experiences and vice versa?
- Can the Convention be useful for social science professionals in their work for the rights of children, in general or in specific areas?
- Can the Convention lead to new responsibilities or areas of work for child psychologists and other professions?

2. Material and methods

The material and methods for this study are based upon, but must be distinguished from, the methods and material of the Ombudsman Office.

The material of the Office consisted of:
- the collective previous professional experience of the staff members;
- records of applications, case files, lectures, annual reports and other publications of the Office.

2.1. Previous experience

I had worked in nursery-schools and kindergartens as a teacher. As a psychologist I had worked in institutions for mentally retarded, for child and adolescent psychiatry (as a therapist for individual children and for families), as Chief Psychologist for the county services for mentally retarded, and I was - when the Ombudsman Office was established - psychologist/consultant for preschool children in the municipality where I lived, working with physically handicapped as well as with children with learning and/or behaviour problems. During the previous 10 years I had been active in local politics, a member of the Municipal Council and the Municipal Executive Board, during different phases a member of the School Board, Child Welfare Board, Kindergarten Board, Social Welfare Board, - and I had three children of my own.

My professional views were mainly - but not solely - based on the developmental theory of Erik H. Erikson (1951) and of the neo-Piagetians; Erikson because of his emphasis on the interrelationship between child, parents, extended family, the society in which they live and the traditions they carry with them; the neo-Piagetians because of their further refinements of Piaget's cognitive stages theory. In the Office during my terms sociology, experience in ministerial and research work and law were the other elements of the collective experience.

2.2. Records of applications, case files, statements and lectures

The recording of applications changed somewhat during the years, expressly from 1982 to 1983 when categories were changed, but also subtly. Apart from the headings in the record-sheets, there were no formal guidelines for recording applications. Nor was there any formal control concerning how each staff member recorded different applications. Looking at the records of applications from children it is for example obvious (now) that the legal staff members did not regularly note the age of applicants. Also, particularly in busy periods, application-records were sketchy or non-existent. The coding for types of cases also changed and were to some extent used in different ways by different staff members. The purpose of recording was to give a general impression, particularly of the types of problems presented to the Office. The statistical material is therefore not up to the classical standards required for research purposes. I still think, however, that this material is useful for the purpose of this study, with the restricted use to which it has been put.

Each year brought between 1600 and 2600 applications, a total of more than 17020 recorded applications, close to 9000 cases. Tallies were done for the annual report each year. These reports and other publications, are, of course, available (Barneombudet, annual reports 1981-1989).

Finally copies of all opinions, statements and lectures are available in the office files.

2.3. Material for this study

The material of the Office is an important part of the material for this study. All the hearing statements produced during my term in Office were collected (and bound) for me when I left the Office. It was not possible to go through all applications and case files. But the records of applications from children were pulled out for closer analysis. With the above mentioned scientific weaknesses of recording, further statistical exploration, e.g. of levels of significance of recorded differences between problem areas, years or groups of applicants seemed futile. As the records stand, they illustrate the general trends, which are the important elements for this study as well as for the work of the office during my terms.

Based on annual reports, hearing statements and lecture manuscripts, it has been possible to analyze trends and changes in the work which were not easily seen at the time. In this process particularly the professional knowledge and thinking on which our statements and opinions were based has been made explicit and included. Whenever possible, this material has been taken out of the statements themselves. When research references had not been included at the time the statements were written, these have been added at this writing, but only in so far as the research applies to the information and discussions presented at the time, i.e. during my period in office.

The collective experience of the staff and the aims of our work unavoidably had some impact on the evaluation of research results. For example we always had an eye on the possibility for practical use of what we were writing. Theoretically interesting, but practically less useful discussions were not included. The style of our statements also reflected practical usefulness. Our aim was to write for the general public, and also in such a way that the psychological information was understandable to other professions (e.g. lawyers) and legal information was understandable to e.g. psychologists. This style is reflected in this study as well, which I hope will increase general use.

The material of independent studies (Melton 1991; Willems 1988), has also been available to me. Evaluations by Norwegian institutions (Tamsfoss 1989; Ministry of Consumer Affairs and Government Administration 1989) and meetings and correspondence with individuals and offices working for children in other parts of the world also constitute part of the material, particularly for comparative purposes. Comparing the Norwegian Ombudsman for Children with other approaches, some of which were based on the Norwegian example, more general principles applicable to many systems of monitoring and working for the rights of children can be outlined. This material is supplemented with material presented at an international seminar on monitoring mechanisms, held in Florence in November 1990 (Flekkøy 1991).

2.4. Analytical method

This study is a retrospective study in two respects:

1. It is based on practical experience and information which was not primarily collected for research purposes. The plan for further analysis materialized only in 1989.
2. With the experiences of the Ombudsman as the point of departure for this study, it was necessary to define developmental trends in history which could help explain the background for the Office and if possible, help clarify key terms, such as "child",

"children's rights", "child advocacy". Drawing lines back again through time, from the 1920s to 1930s, through my years as ombudsman, it was natural to look at how my experiences could be related to the future, which in this connection started in 1989.

3. Clarifications of key concepts

The question of whether or not the child or children should have specific or general rights is an issue of discussion. If children are to have rights, the question of which rights arises, and also if these rights are covered by existing instruments or whether children need specific rights instruments as well as specified rights. These issues will be addressed in Chapter One and Chapter Eight.

3.1. Can "child" and "childhood" be defined?

Philosophers, historians and teachers may be referring to different concepts when they speak of "a child" and "childhood". Is a conception of childhood as something special something that only applies to what in the Western world now is called "preschool children"? Just 100 years ago children were looked upon not as future adults but as *small* or miniature adults. Adult behaviour was expected, and evil - i.e. childish-impulses must be beaten out of them as quickly as possible. Historically self support at a young age was accepted in our part of the world too: From the times of the Roman Empire, through the Middle Ages and the industrial revolution, up to the end of the 19th century, children of six or eight years were full-fledged workers on the farms, in shops, factories, and professions. Girls of eight to ten years were servants in the households of other families, boys were apprenticed. The ties to home and family loosened early. According to Aries (1962) two hundred years ago children seven or eight years of age were part of the adult world, which would indicate having "left childhood" behind.

Many descriptions (Sigsgaard 1979, Rudberg 1981, Tønnesen 1982, Hodne & Sogner 1984) confirm that at least the children of the farms and smallholdings and of poor families in the towns were working and doing adult work by age seven or eight, particularly the boys. When Hart (1991) writes: "... children (in the 1700s)... were valued for contributing to family work..." it might reflect a value placed on the expected contributions in the future or it might mean that children were not valued until they could contribute. In either case, to be truly esteemed, children at least should have reached a stage where they are able to earn money working, i.e. at least six years old. Other descriptions, e.g. of well-off families, give other impressions, a different picture of the - in those classes - prevailing perception of what a child and therefore of what "childhood" was.

Even in our own time the period called "childhood" has different durations in different cultures or under different conditions. In the "Western" world the age of majority (right to vote) is generally 18 years. But current lists of age limits, national (see Appendix Four) and international (Appendix Five) indicate that there is no one age at which childhood ends and adulthood begins. These lists do not indicate at which age a person is expected to support himself or herself, which in many cases starts at age five or six (amongst the street children in India, Latin America and Asia).

Age limits may be subject to change within one country or may vary from country to country, sometimes for less than obvious reasons. In Norway the age of majority was 21 years until 1960. Lowering it to 18 had to do with a new view on the competence of young people. The voting age is 16 years in Nicaragua, where perhaps the right to vote is acquired at the same age as the age of conscription. The age-level set for marriage has changed from 12-14 years for daughters of the "best families" 200 years ago to 18 for both sexes now, or to 16 for girls and 18 or more for boys, varying from country to country. This age-level does not have anything to do with puberty or sexual maturity, as the average age of menarche was actually higher two centuries ago and varies somewhat from country to country now. On the other hand, marriage was then necessary to support a girl and also a means of combining fortunes, properties or families. In our age and culture, marriage is a question of personal commitment, based on personal feelings, at least in many industrialized countries. A question today is whether or not children who must support themselves (like streetchildren must) or children who themselves have children - or children who are active soldiers at the age of 12 years - are still to be considered as children, - or are they actually adults? The concept of "Childhood" and therefore also the concept of what a "Child" is cannot be clearly defined. How, then, can we speak of rights for children if the definition of "a child" is uncertain, if perhaps "childhood" is defined by circumstances and not by age? Perhaps an individual is "a child" as long as he (or she) does not have total responsibility, but has other people to protect, help, support, and teach him?

For the purpose of this study, and because the Ombudsman responsibility involved all persons under 18 years of age, a "child" is defined as any person under 18 years of age, regardless of the fact that the person acquires "maturity" in different areas before this age. This also corresponds with the definition of "child" in the Convention on the Rights of the Child.

3.2. How definite is the Convention definition of "a child"?

The Convention on the Rights of the Child is the first international treaty which attempts to define the term "child". But in fact, the Convention does not give an unequivocal definition. Article 1 states: "For the purposes of the present Convention, a child means every human being below the age of eighteen years unless, under the law applicable to the child, majority is attained earlier". The most obvious loophole in this provision is that a child is anyone under 18 years unless the national law states otherwise. Theoretically, a State can claim that majority is reached at age 12 or perhaps even younger. If a States Party does so, however, the

States Party would have to justify the limit. The limit set must not be:

- arbitrary, e.g. there must be good reason between the objective which is sought and the means (i.e. the age);
- discriminatory as measured by Article 2, discrimination defined as meaning any distinction that cannot be justified by reference to objective criteria;
- in conflict with other international instruments that set age limits and that have been ratified by the States Party;
- diminish levels of rights that already exist (Article 41). This means that age 18 is not a maximum age level, and that e.g. if a person is entitled to protection or support from the child welfare system until age 21, this right cannot be reduced by application of the age limit of 18.
- finally, and most important, the age limit must be "in the best interest of the child".

The last point (in the best interest of the child) was one reason for not making the age of 18 years unconditional. An unconditional age limit might be discriminatory against children in societies which already give them greater autonomy or responsibility. Also an absolute cut-off age would be contradictory to the fact that "No State seems to feel that a desire for legislative neatness or uniformity should lead to setting of a single age for... driving, voting, drinking, marriage, joining the military, assuming full criminal liability, leaving home, leaving school and obtaining medical treatment without prior parental authorization..." (Alston 1990).

Article 1 does not give a maximum age level. Nor does it state when life begins. Article 6 states that every child has the "right to life" without specifying when the "right to life" begins or what a "child" is. Article 24 delimits the rights of health, "including appropriate prenatal health care" to mothers. It is clear that the Convention deliberately leaves the matter of abortion or right to life open and can be used to justify either position. This was a compromise reached because the issue was so controversial, the clause a "child, by reason of his physical and mental immaturity, needs special safeguards and care, including appropriate protection, *before as well as after birth*" being put in the preamble, which is not binding like the operative parts of the Convention are.

3.3. The Ombudsman term, as related to "child advocacy"

"Ombudsman" is a Scandinavian word, which requires definition for two reasons:

1. The official translation of the Norwegian title "Barneombudet" is "Commissioner for Children". When asked for a suggestion for a translation I proposed "Ombudsman for Children". But the Ministry of Foreign Affairs wanted a common translation for all the Ombudsmen Offices, and the Ombuds"person" for Equal Status for Women objected to "Ombuds*man*", proposed the abbreviated term "Ombud" as it is used in Norwegian. English language consultants objected, "ombud" was not acceptable in English. To solve this dilemma "Commissioner" was chosen. To me "Ombudsman" is gender neutral and in my experience more readily understood than "Commissioner" in this connection. I therefore prefer and have chosen to use "Ombudsman" (except when quoting official translations, e.g. the Act).
2. The term "Ombudsman" can be confused with the term "Ombudswork". Verhellen (1988) uses "ombudswork" as an umbrella term, covering both motives and strategies for furthering the position of children in our society. According to Verhellen (1989) the strategies of the child rights' movement can be summarized as:

1. Child advocacy.
2. The study of the Child.
3. Self-Organization of Children.
4. The Development of a Network.

According to Verhellen, the Norwegian Ombudsman for Children belongs in the "Child Advocacy" category, defined/described as a strategy "within the context of the children's rights movement, ... aimed at changing social systems, institutions and structures in order to maximize the children's possibilities of self-determination. This particular kind of advocacy understandably bears upon those living conditions in society that are an impediment to the optimal functioning of children. The basic idea of this strategy is that no effort whatsoever can produce a lasting result when it is made to benefit an individual child. Structural changes are considered imperative, and this is exactly what child advocacy is all about".

In my view this Office also encompassed elements of the other methodologies. The study of the child is aimed at acquiring "a better insight into the views, the needs and the ideas of children..." and further... "Only when they try to understand the children's view of the world, researchers can make a genuine contribution to the expansion of a body of children's rights that makes allowances for the needs of the children and those of society. The study of the children's own perspectives is therefore thought to be the most valuable contribution possible to support the conceptual expansion of a framework of children's rights that would be based on rights instead of needs" (Melton as quoted in Verhellen 1989). The Ombudsman for Children was open to and encouraged views from children. Ten to fifteen per cent of all the cases were first introduced by children. Thus the Office did acquire "a better insight into the ideas and views of children".

If "highlighting the common interests of children" actually is "one of the best possible ways to combine the forces of children themselves (self-organization)" (op. cit.) the Office also did that and experienced local groups of children banding together to right something they perceived as a "wrong". Finally "to connect different people and organizations with similar ideas" (op. cit.) (the characteristic of networking) was certainly one of the strategies of the Ombudsman Office.

I prefer to use the term "child advocacy" as the umbrella term, partly because the "Ombudsman" has elements of "the study of the child" and "development of networks", even to a modest degree "self-organization of children".

CHAPTER ONE

The Basis of Rights for Children

Introduction

This chapter addresses the question of why "rights for children" could become an issue of international concern when it did. Why did this not occur earlier? Changing public attitudes towards children, as distinguished from parental conceptions of children and childhood, may have had some importance. By distinguishing between private and public attitudes to children, it may be easier to see the feed-back systems between attitudes and public initiatives more clearly. Also it may then be simpler to demonstrate that attitudes of today are not entirely different from attitudes which seemed to prevail 200 years ago and that the attitudes of long ago can surface again under different circumstances today.

Acceptance of the concept of rights for children was made possible by converging historical trends. One trend was the advancement of legislation concerning children, the second the emergence of child development as a social science and the third the evolution of human rights. When these three trends converged, in the 1920s to 1930s, a unique basis for the emergence of the concept of rights for children was established.

The final section of this chapter describes the development of international instruments on the Rights of the Child up to the adoption of the United Nations Convention on the Rights of the Child in November 1989. Further discussion of this Convention and its possibilities will be the subject of Chapter Eight.

1. Children and the Law

1.1. Legal rights of children

The earliest legal rights for minors, at least two to three centuries ago, gave children the right to inherit and dispose of property (which probably was of little consequence to the majority of children). Common law (for example, in England), determined a range of rights of parents and duties in relation to their offspring. Initially, these rules were not easy to enforce, particularly because the law until the 19th century did not have provisions for intervention by superior authority when parental care fell short of minimal standards. The 19th century was to become the period when legislation concerning children was introduced in many countries, very often in connection with child labour and education, but also in acknowledging a public responsibility towards orphans and other destitute children.

Such legislation reflects measures considered necessary and acceptable by the law-makers. Recognition expressed in law also reflected what the law-makers believe to be acceptable to the "general public", i.e. the voters, which until the 20th century included only the male population, and not even all adult males. When a new concept was adopted by "the general public", proposals for legislative amendment might ensue. During the 19th and the early 20th centuries, child connected legislation indicated a new concept of the nature of children: They were considered vulnerable, in need of protection. This concept was in contrast to previous conceptions of children as "innately evil" maintained by, for example, the Calvinists. The "vulnerable child" had roots in Rousseau's (1762) emphasis on children as innately good, but vulnerable to damage caused by society, and in the other idea (John Locke 1632-1704) that children were neither good nor bad (tabula rasa), but malleable. Both emphasized the impact of environment, giving reason for concern about the possible effects on children of their living conditions. During the 19th century positive advances in public health had a major impact on child and infant mortality rates. Long-term measures for children became possible (for example education for *all* children). Industrialization and urbanization led to changes in conditions for children which in turn called for new legislation. Factories used even very young children as cheap labour, with long hours, taking a toll on children which was unknown while they were "only" working on the farms.

More complicated professions also made more education necessary. Compulsory school was, however, established for different reasons. In Denmark-Norway school was compulsory from 1739: learning to read was considered necessary in order to enable the children to learn their catechism. From the age of seven and until confirmation at about 14 years (also introduced by law in 1739) children went to school every other day, 20 weeks a year (from October until April), which did reduce the number of hours spent at work. Views on child labor were also mixed, as demonstrated by the fact that laws prohibiting child labour were not always met with unanimous approval. Indeed arguments against the proposals might be strong and sometimes couched in terms of work as beneficial for the child. In Denmark in 1873 opponents argued that work is a blessing compared to idleness and any law prohibiting parents to send their children to work would interfere with the Holy relationship between parents and children (Sigsgaard 1979). Hard work was an important part of the training of young delinquents and vagrant children in the "Children's Houses" established in the 17th century. In Denmark in 1873 and in Norway in 1892, 150 years after the introduction of compulsory school, legislation was adopted which in principle forbad employment in factories of children under 14 years, except for light work which was allowed for those between 12 and 14 years of age.

In England other aims prevailed. "The child-labor struggle progressed industry by industry and resulted in an eventual adoption of a pattern of half work, half school" (Rosenheim 1973). In America on the contrary, universal prohibition of child labor and compulsory education were seen as part of the same picture. Education was considered a basic requirement for representative government and a classless society, both principles important in the young country.

Legislation prohibiting child labour was often proposed and accepted by adults whose own children did not have to contribute to the support of their family. Robert Owen is one example. His proposal that all children in England should - like his own - go to school, led to legislation on compulsory education and a public school system, which in turn, led to other measures. Parents who could not support their families without the income of the children, objected to compulsory education, and free meals - at school - was a necessary supplementary measure.[1]

1.2. Child protection legislation: Reactive or pro-active?

In many countries, legislation had the dual aims of protecting children and also of protecting society or steering societal development in the desired direction. In many connections this involved control of the individuals, including children. Implementation of law was then reactive to the actions of individuals who were breaking the law. With child welfare and other protection-oriented legislation the function of the law was more pro-active, the aims of implementation being to give substance to the rights of individuals. The reasons for protecting children could be equivocal, involving on the one hand their vulnerability, and on the other their future value as adults (which could be reduced if they were damaged while young). In some cases measures to protect or assist children could equally well be devised to protect society; as were, for example, the early institutions for delinquent or vagrant children.

Protection was one outcome of legislation, control was the other side of the coin. Idle children might beg, steal or be destructive. School or work would keep them under adult control and protect society as well.

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[1] The need for supplementary action changes in time. School meals existed in England and in Norway in the childhood of the public school system, - in Norway also during and after World War II - but not today, when we believe that children are adequately fed at home. But the question may arise again, as a consequence of longer school hours, out of concern about young people's increasing use of "junk"-foods or from a recognition of a situation where fewer and fewer children learn the social aspects of sharing meals with a group at home.

In the 20th century campaigns for new legislation grew out of a concern for groups of children with special needs: the deaf and blind, the errant, the orphans and the exploited. Rosenheim (1973) concluded that "...the dominant theme of the "new" law (in the 20th century) has been child *protection*. It presupposes passivity of children as its ideal. It permits the possibility that the passive can be corrupted or misguided. Child protection thus encompasses the tasks of both salvation and re-education. These are the underlying purposes of social legislation for children. Together with the older law of parent and child laid down over seven centuries, they form the modern legal framework for the definition and implementation of permissible standards of behaviour by and toward children...". Later on the views changed, so that the focus on the welfare of the child could override the older law of parent and child, for example, the "Battered baby" legislation and laws to terminate parental responsibility in the 1960s in USA. Rosenheim (in 1973) also finds that "There is already evident in our legal system an accommodation to the evolving phases of personal development" and discusses possible future legal reforms, for example lowering the age for assuming certain adult responsibilities and exchanging coercive punishment measures with more subtle forms of social control, such as withholding benefits. It is, therefore, clear that modern knowledge of child development had by 1973 become a factor in considering legal measures concerning children. But Rosenheim did not discuss the possibility of rights for children in general.

2. Child development as a social science: a new basis for child rights

2.1. The emergence of child psychology in Europe and the United States

The evolution of child development as a social science started less than one hundred years ago. Recent progress in medicine, such as the discovery of X-rays, the understanding of the effects on health of nutrition, sleep and exercise, and new advances in bacteriology and genetics led to an increased interest in the somatic development of children, blooming after World War I in a plethora of comparative studies. Related to this, in particular in connection with genetics, statistics to handle a large number of variables were developed, and were used in the construction of tests. With compulsory schools came an interest in finding out which children were educable, leading to the development of intelligence testing. Studies of the learning process were carried out to determine *how* to teach and how learning takes place. The latter were also the result of pressure regarding deviant groups (the feeble-minded, deaf and blind children, delinquent or socially maladjusted children) parallel to the concern for these groups in the legal field.

In addition to these research and laboratory advances, there was progress in the clinical field, in child guidance clinics, and also in the treatment of adults, where psychoanalysis led to new formulations of theory on child development. By the 1920s both laboratory science and clinical studies were recognized as methods to accumulate knowledge and improve methods.

An enormous increase of interest in physical development and education followed World War I. During the War general conscription had evidenced men whose physical health and/or education were so poor that they could not serve. After the War, information about children and child care abounded, also because radios were now common in the households and more people were reading magazines and books as well as newspapers. The great burst of research based on the biological approach to development took place in the 1920s and 1930s, when a number of large scale "growth studies" were initiated (Terman 1921, the Berkeley Growth Study 1928, the Oakland Growth Study 1932, the Fels Research Institute Study in 1929, followed by Arnold Gesell at Yale).

The behaviorist approach to learning theory represented by R. Watson, had its first major impact during the same period. Jean Piaget, influenced by the mental testing movement in the early 1900s, presented his first research in the 1920s. The impact of Sigmund Freud began to be felt in the 1930s. Some of this was certainly perpetuated by the German psychologists fleeing Germany under the Nazi rule (Køhler, Lewin, the Buhlers, H. Werner, E.H. Erikson, S. and A. Freud, to mention a few). The practice of child analysis had started before the two Wars, while observations of children during World War II had led to new formulations based on the "natural experiments" of refugee children and children separated from their mothers (Burlingham & Freud 1944; Freud & Dann 1951). This had an impact on theory (Bowlby 1969, 1973) as had other experiences and observations (Erikson 1950).

Given the time lag between research reports and acceptance amongst people in general (and parents in particular, who largely look for what they want to confirm their own approaches (Kohn 1963)) it seems natural that the debates of the 1920-30s should reach fruition in the 1950s, particularly spurred on by World War II and its ideologies. Not only were there published during this period numerous manuals on child care and child rearing, popularizing results of research into understandable (and "mis-understandable") handbooks on child-rearing (Wolfenstein 1953), television brought a new way of spreading information and spurring discussion. The concepts of the value of childhood and its implications for the adult personality, and of the value of children per se, would necessarily be the basis for accepting the concept that children as human beings have rights, but also have special needs and therefore special rights.

2.2. The Norwegian debate: a practical example

In Norway, child psychology and development was based on American research, particularly the child guidance movement, but also on influences from Europe. This was partly due to the fact that the pioneers had their training in Europe (H. Schjelderup, the first professor of psychology[2] was trained in Germany and Austria). The first University teacher in child psychology (Åse Gruda Skard) had worked in USA with Healy and Bronner in 1931.

As in other countries in the 1930s and 1940s divergent psychological theories, particularly learning theory and psychoanalytic theory, both partly misunderstood, dominated publications and public debate in Norway. Though otherwise often conflicting, these theories had in common the view that children are *not* miniature adults, nor can adult behavior be expected until maturity. Learning, which was stressed differently by the theorists, was viewed as the means to enable the child to behave according to the standards of society. Both schools, for different reasons and at different periods, deplored the use of harsh punishment as a means of bringing about behavioral change.

In Norway psychoanalytic/psychodynamic thinking seemed to be the stronger, partly due to the influence of Charlotte Buhler and Wilhelm Reich, who both lived in Norway on their way from Germany to the United States. Speaking in Norway in 1938, Charlotte Buhler (quoted in Tønnesen 1982) pointed to the "new" goals of child-rearing: "Our grandparents wanted virtuous children, our parents wanted capable and skillful children, we want children to be happy". Happy (i.e. un-neurotic, un-frustrated) children would develop into active and independent adults, quite unlike the results of the Nazi child-rearing principles then practiced in Germany, vividly criticized in Norway (Skard 1938, 1949; Waal undated, quoted in Rudberg 1982). After World War II information to parents often compared the fascist principles, which were condemned and "modern" child rearing, based upon knowledge about child development and what parents could expect from children as they grew. The public debate was dominated by views on whether or not children were "born evil" (and would dominate their parents if not brought under control) or had "evil" or dangerous impulses which must be controlled lest they damage the development of the child. Proponents of "The innocuous child", who spoke of innate impulses as something the child would outgrow, or as amenable to socializing control, were accused of lacking discipline and letting their children run wild. Two main topics of controversy were what to do with childhood sexuality and the use of physical punishment (spanking). Demand or on schedule feeding led to heated discussions, which also became an issue of the value of mothers. One misunderstanding was that setting limits, disciplining a young child, could harm the child for life. This misunderstanding was long-lived, even surfacing in discussions following the prohibition of physical punishment in the schools in 1936 and again in 1987, discussions caused by the proposal of a law prohibiting such punishment of children by their parents. When no limits were to be set, how could children be disciplined? And particularly without physical punishment? The main principles of adjusting limits and expectations to the child's age were, however, accepted. Since parents then rejected the methods and advice of their own parents, confusion was rampant on how to bring up children. The mass-media became sources of information and advice.

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[2] Anathon Aall was the first to lecture in psychology, but was Professor of Philosophy. Schjelderup was appointed Professor of Philosophy, but the title was changed in 1928.

The dream of homemaking as the mother's sole occupation was strongly supported by partial misunderstanding of the research on the effects on children of mother-child separation, which was interpreted to indicate that any separation, whatever the age of the child, the length of separation, the substitutes available to the child, would have disastrous effects on the development of the child. This view was strongly propagated by women and men who opposed female participation in the labor market or alternative methods of child care, - whatever reason they had for their opposition. Some would say that the element worth interest here was the fact that the needs of the children were so strongly emphasized, - while others, more skeptical, would point out that this emphasis was more of an excuse than a real reason for telling mothers to stay at home and care for their children.

Gradually a more flexible view gained prominence: the age of the child, the length of separation, and the substitute situation were of great importance. The capacity of infants to attach to more than one adult, provided the adults were caring and stable, was important for fathers as well as for alternative caretakers and mothers. Research (e.g. Whiting & Whiting 1975) indicating that the quality of parenting improved when parents (without familial networks) had someone with whom to share the responsibility and to give them some relief, was important, and the findings (Skard 1965) indicating that mothers, provided they had a minimum of time with their children, were better mothers if they were satisfied with their own life situation (regardless of whether they worked outside the home or not) relieved many parents of unnecessary guilt-feelings.

Some of these themes would recur later, in the work and files of the Ombudsman for Children.

3. Human rights

3.1. Rights based on needs: one rationale

Abraham Maslow (1954) identified a hierarchy of needs which motivate human behaviour. As described by Papalia and Olds (1981) in ascending order, these needs are:

1. Physiological: for air, food, drink, and rest, to achieve balance within the body.
2. Safety: for security, stability, and freedom from fear, anxiety, and chaos, achieved with the help of a structure made up of laws and limits.
3. Belongingness and love: for affection and intimacy, to be provided by family, friends, and lover.

4. Esteem: for self-respect and the respect of others.
5. Self-actualization: the sense that one is doing what one is individually suited for and capable of, to be "true to one's own nature".

This hierarchy would seem to be a good basis for "human rights". The needs are - as a whole - specifically human and apply to all humans. Needs are expressed and satisfied in different ways in different cultures, reflecting different values. For example, what types of behaviour gain the respect of parents or peers will differ. But the needs themselves are not subject to value judgments, they are universal, and therefore suitable as a basis for human rights. The responsibilities which follow from rights will also vary according to the norms of different cultures. Needs, but not desires or wishes, can, therefore, be translated into rights.

Characteristics of the hierarchy are that the person must fulfill the more basic or elemental needs before moving on to the next level, which corresponds with some of the discussion today on "priorization" of rights. Should e.g. the child's right to nourishment be given priority in relation to the right to develop? (See Chapter Eight). The person who reaches the highest order of needs (self-actualization) is Maslow's ideal, an ideal reached by very few. "This person would display high levels of all the following characteristics: perception of reality, acceptance of self, of others, and of nature, spontaneity, problem-solving ability, self-direction, detachment and the desire for privacy, freshness of appreciation and richness of emotional reaction, frequency of peak experiences, identification with other human beings, satisfying and changing relationships with other people, a democratic character structure, creativity, and a sense of values" (Maslow, 1968). Even though few people ever reach this level, many healthy people keep moving to more self-fulfilling levels. As an ideal, it is something to wish for the growing generations. It is also obvious that many children in the world will never reach the higher levels.

Maslow's hierarchy does contain another key factor where rights are concerned: Needs-based rights reflect the fact that human rights must always be in relation to other human beings and cannot (or need not) be stated as rights for an individual living entirely alone. Rights in relation to other people involve responsibilities, also to the society. One purpose of *acknowledging* rights is important: they lay down a new foundation for self-respect and the respect of and for other people. Given such rights there is no need to beg or plead when demanding what is the person's due. This also means that people with the same rights are worthy of the same respect, which is reciprocal and thus involves responsibility in relation to the other as well as to oneself. So there is a close connection between rights and dignity (self-respect, self-esteem) and rights and respect (for as well as from others). Rights, thus, enhance the possibilities for reaching level 4 of Maslow's hierarchy. This connection also makes it clear that rights are not only for the benefit of the individual. Societies need people who have reached the highest possible level of need-fulfillment. Therefore rights are also for the benefit of societies.

Maslow's hierarchy does not exclude children. If the hierarchal needs are translated into rights, it follows that children should be entitled to the same rights, including the right to dignity and respect, as adults. Maslow does not indicate how humans develop from the total dependence of babyhood to responsible adults capable of achieving the higher levels of needs. How, when, and in relation to whom does a child develop structures "made up of laws and limits", "security, stability and freedom from fear" and self-esteem? The fact that children must develop is not an argument against their having rights, assuming that the needs are universal. The necessity of development rather points to other aspects:
1. Children need more assistance than many adults to be able to fulfill needs, have their rights met and take responsibility according to their capacities.
2. The ways in which the needs/rights of children are satisfied will vary as the child grows. The need for food can be satisfied by milk

alone when the child is very small, but requires other means later on. Similarly self-respect is engendered in different ways as the child matures. And the ability to take responsibility will also change with increasing maturity.

3. The needs/rights of children will be satisfied in different ways in different cultures.

While Maslow's hierarchy of needs can be useful to establish rights and also in an analysis of levels of need-fulfillment, this theory is not sufficient to explain the changing patterns of need-fulfillment/satisfaction of rights as children grow.

3.2. The Human Rights movement

Price Cohen says (1990) "the notion that man has certain rights simply because he is human required a period of centuries to become universally recognized and part of binding international law. The transition from theories of natural rights to national positive law, to human rights and international law, was aided by extensive discourse among moral and legal philosophers".

The concept of human rights arose when the stronger part of populations dominated the weaker, when society's need to control became a question of the degree to which control of the individual was necessary in order that society might function, and need arose to limit expression of the individual in respect to the rights of other individuals. National law was formulated early to control, but also to protect individual citizens, even children.

Influenced by two great "Declarations of Rights" in the 18th century (in the USA in 1776 and following the French Revolution in 1789), national constitutions of the 19th and 20th centuries (the Norwegian Constitution of 1814) recognized whole series of human rights, although not all of these rights were given even to all adults. The right to vote was, for instance, not generally accorded to women, nor to all men. Even Constitutions of generally progressive countries could have discriminatory articles like the Norwegian Constitution did - in 1814 - in not accepting Jews in the country. (This was changed in 1851). The societal aspect of these Constitutions was the establishment of a political system to regulate the legislative, judiciary and active government of society, creating institutions for general benefit, while limiting the State's power to control the individual. The balance between individual rights and duties, between which rights are absolute and which subject to societal limitations is important even in international declarations, conventions and covenants on human rights. After World War II, national constitutions emerged which recognized and proclaimed personal and collective liberties and basic rights for citizens in general, including children. According to Ruiz-Gimenez (1989) "This was the case in the 1947 Italian Constitution... in the fundamental Bonn law of 1949... in the preamble to the French Constitution of the 4th Republic (in accordance with the 1958 Constitution)... the Constitution of the Portuguese Republic of 1976... and the Spanish Constitution of 1978...".

3.3. International human rights instruments

The end of World War II led to a strong international movement to confirm human rights in general as well as rights for special groups.

The Charter of the United Nations contains an emphasis on the promotion of human rights. The Universal Declaration of Human Rights was adopted by the United Nations in 1948, as a reaction against the brutal violations of human rights, particularly in Europe, before and during World War II. This Declaration has since been followed up with numerous other international treaties, the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Political and Civil Rights, both from 1966 and a series of more specialized treaties later, 67 in all (Centre for Human Rights 1988). General acceptance, as reflected in ratifications, is not particularly strong in all the countries where "human rights" started: The United States has only ratified the Convention on the Prevention and Punishment of the Crime of Genocide, the Slavery Convention with amendments, and the Convention on the Political Rights of Women, three out of the 24 more important instruments (Centre for Human Rights 1990).

4. Rights for Children

The idea of some rights for children is not new in our own age. The educationist Comenius and Martin Luther both declared - in vain - that school should be the right of every child. John Locke discussed the relationship between the rights of parents and the rights of the child. Swedish Ellen Key in "Barnets Århundre" (The Century of the Child) in 1900 even demanded that children should have the right to choose their parents, an idea re-proposed by Ulla Jacobsson in the 1980s (Eide 1988).

4.1. Private versus public attitudes towards children

Attitudes towards children have an impact on views of rights for children. But descriptions of attitudes towards children through history do not give a picture as clear as some would have it. Price Cohen says (1990), "The early plight of children has been fairly well documented by historians. From Roman times to the mid-nineteenth century they were treated as something akin to property and have rights which might be characterized as falling somewhere between those of slaves and those of animals. Children were maltreated and abused, shipped off to sea, indentured as servants and often sold or left to die". Stone (1977): "Children, first considered to be chattel, were valued for contributing to family work and supporting parents in their old age.... young children continued to be ignored and were without individual identity to the extent that they were considered replaceable and interchangeable. Their upbringing was so harsh it produced "distrustful", "cruel" adults, prone to "hostility" and "incapable of close relationships". According to Hart (1991) "Gradually, children came to be considered as a special class, and parents were increasingly expected to maintain, educate and protect them...". One question that arises is how "cruel" adults "incapable of close relationships" can become nurturing, caring parents, able to maintain, educate and protect children?

Such assumptions often refer to the two first writers who described childhood, important because they were the first to consider childhood historically interesting. According to Aries (1962) childhood as a special conception did not emerge until the 17th century, previous to which the special nature of childhood was ignored and children treated as miniature adults. DeMause (1974) stated "The further back in history one goes, the lower the level of child care, and the more likely children are to be killed, abandoned, beaten, terrorized, and sexually abused" (from which we might deduct that abandonment, sexual abuse etc. should have disappeared in our enlightened times).

There can be little doubt that the conditions described did apply, but the number of children within the entire child population who were treated in these ways is unknown, and the impression may be unnecessarily bleak. There are other sources which provide different interpretations of conditions for and attitudes towards children. Folklore and traditions in different parts of Scandinavia (Hodne 1984) indicate that adults felt that small children must be protected and prepared for the future. Children were wanted and cared for to the best of the parents' abilities. For example, parents might feed a baby dried, smoked meat, coffee, or heavy sour-cream porridge in order to give the baby the best available food, as a warm welcome to life (Rudberg 1980). Even suffocation in the bed of their parents need not be a way of reducing the number of children (Sigsgaard 1979), but a consequence of parental attempts to protect the child from evil spirits, kidnapping or the substitution of their own (perfect) baby with a deformed one (the explanation for having a handicapped child).

Such beliefs and practices may have led to undesirable results, but on the basis of such material it could be argued that even several hundred years ago parents tried to care for and nurture their children as well as they could, with some understanding of special vulnerability and special needs in very young children.

The cognitively determined attitudes of adults in relation to how children are to be treated may have changed more than their feelings about children. Yet descriptions of the treatment of children can lead to different interpretations. They can be interpreted to reflect the feelings of parents, but may be quite as much a reflection of what parents thought was "right". A parent who lost a child might - on the surface - not grieve, which could be - and often has been (e.g. by Sigsgaard 1979, Aries 1962) - interpreted to indicate that parents who expected to lose many children, did not really love them, or might be afraid to get too involved with their small children. But if the Church (as in the 16th and 17th centuries) held that the loss of a child was part of God's larger plan, a show of grief would have been a lack of trust in or respect for God. Therefore, "unfeeling" parents were behaving according to societal rules. Similarly, if adults believed that children were born evil, absolute obedience, the breaking of a child's willfulness and punishment of "evil impulses" might make corporal punishment and other harsh reactions seem necessary. Corporal punishment executed by a parent who really felt that "this hurts me as much as it hurts you" may have had a different quality (and quantity) than corporal punishment inflicted by a parent believing that fate alone determined the destiny of the children. Such a parent would hit a child as an expression of irritation, but hardly with the purpose of beating "evil" out of the child.

The harsh hard labour undertaken by children in the past (e.g. being a shepherd at age seven, a maid-servant at age 10) could have reflected a belief that hard work was good for children, would keep them out of mischief, strengthen their characters and prepare them for adult occupation and life. But it could also be a question of stark necessity, the survival of children and of their families when large segments of the population were living in deep poverty. Little is known about the different impact which conditions like these may have had on children if such conditions occurred in different emotional contexts. A child sent away from home due to dire necessity probably would feel somewhat differently about it than a child sent away as a punishment or because he or she was rejected by his or her parents. A different aspect of this was that children were expected to take on quite a lot of responsibity, but this did not stem from nor lead to *rights* for the same children.

Parental conceptions of children and childhood may be different from the public conceptions, a distinction which may be worth making. Historically, children had few rights. They were denied the right to determine most of the aspects of their own lives. This was a consequence of the publicly dominant view of children. But varying conceptions of children have probably existed side by side, and exist even today, in different parts of the world and in different situations, in part determined by changing economic and social conditions.

4.2. Equal human beings?

When children are considered the property of parents or when they are only viewed as potential adults, they are not seen as individual human beings with their own very special, but equal value as humans. Even when they are considered "equal", they may still not get the respect for their dignity and integrity which is accorded to adults. This is made evident in many ways. Hitting a child is legal in most countries, while hitting an adult may lead the offender to prison. Working conditions for adults are secured by law, - not so for children. Even in schools, where the children vastly outnumber the adults, there are rarely rules which apply to the working conditions of the pupils.

As a general rule, when children do have rights, these are indirect, in the sense that others (most often the parents/guardians) have rights on behalf of the child. Even explicit rights are conditional or controlled by others. For example, children in many countries have the right to education. In many countries the law does not give the child the right to go to school, but gives parents the right to send their child to school. If the child does have the right to education, the parents have a responsibility to get the child to school. So the right to education does not imply a choice for the child. Restating existing national legislation making the child the subject, not the object, of law, would lead to great improvement in the realization of the rights for children in many countries.

4.3. Special rights for children?

The general statements of human rights do not exclude children. But the rights of children are not explicit either, being generally submerged with the rights of adults, particularly the rights of parents and family. Since children are human, the general human rights should also apply to them. The International Convention on the Elimination of All Forms of Racial Discrimination does not point to age as a cause for discrimination. But people are discriminated against because of age, the old as well as the young (Franklin 1988). One view on rights for children has been that they were sufficiently taken care of by other treaties, so that special instruments for children were (or should be) unnecessary. The same thinking should apply to other groups such as women or people of different races. But gender and race discrimination are facts, and have been the reason for the "Discrimination Convention" and the conventions on the rights of women. Group-specific treaties have been seen as necessary and have been adopted to protect the interests of weak or discriminated groups of people. Children are discriminated against in society and also within their families: As long as children are not perceived as separate, equally valuable individuals as adults, they are bound to lose whenever a conflict of interest between adults and children occurs.

The idea that children should have their own rights did not gain acceptance as an international concept until after World War I. Yet when specific rights for children were recognized, the transition from the first assertion[3] to international law took only 100 years. Some (Price Cohen 1990) say that the process only took one generation, starting with the adoption of the Declaration of the Rights of the Child in 1959, 30 years ago. There was not, they say, any broad theory of rights for children until the drafting process of the Convention started, - it was created as drafting of the treaty took place.

4.3.1. THE 1924 GENEVA DECLARATION OF THE RIGHTS OF THE CHILD

Eglantyne Jebb in the United Kingdom (quoted in Rädda Barnen 1989) said, "It is children who pay the heaviest price for our shortsighted economic policies, our political blunders, our wars". She was arrested for obscenity when she displayed pictures of starving children in Europe, damaged by World War I.

This was the impetus for the Save the Children movement, which drafted the first Declaration of the Rights of the Child, adopted by the League of Nations in 1924:

"By the present Declaration of the Rights of the Child, commonly known as the "Declaration of Geneva", men and women of all nations, recognizing that mankind owes to the child the best it has to give, declare and accept it as their duty that, beyond and above all considerations of race, nationality or creed:

1. The child must be given the means needed for its normal development, both materially and spiritually.
2. The child that is hungry should be fed; the child that is sick should be helped; the erring child should be reclaimed; and the orphan and the homeless child should be sheltered and succored.
3. The child must be first to receive relief in times of distress.
4. The child must be put in a position to earn a livelihood and must be protected against every form of exploitation.

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[3] Menachen Horowitz (in Flekkøy 1991) refers to an article written by Slovak in 1852, but I have been unable to confirm this.

> 5. The child must be brought up in the consciousness that its best qualities are to be used in the service of its fellow men"

(as quoted in "ICCB Children Worldwide", 3/1989).

The Geneva Declaration did not give the child rights. The word "rights" does not appear in this text, except in its preamble (although it is used in references, including the title from time to time). The Declaration speaks of the child as an object, towards whom certain actions must be taken. The individual child must be "given the means needed for its normal development..." "should be fed... helped... sheltered and succored..." (emphasis added). The Declaration does not include civil or political rights. It is a Declaration aimed at protecting children, and most remarkable because it was the first international recognition of children's needs for special protection. The implications of enabling the child to take responsibility (for earning a livelihood and for serving "its fellow men") may be an indication that even in 1924 responsibility preceded rights.

4.3.2. THE DECLARATION ON THE RIGHTS OF THE CHILD

Following World War II, the Charter of the United Nations specified a pledge to promote human rights. In 1950 the United Nations began discussions which led to the adoption of the "Declaration of the Rights of the Child" in 1959, in part inspired by the Geneva Declaration. In this Declaration the term "rights" appears in the text. The child shall have the right to a name and a nationality and the right to an education, to play and to rest, the right to health and development, and the right to protection against discrimination. Other protection rights concern protection against neglect and against all forms of work that can jeopardize the child's education. This Declaration - as the Geneva Declaration - was couched in the terms of the individual child, but the child in 1959 is the *subject*, with specific rights. The 1959 Declaration refers to parents by calling "...upon parents, men and women as individuals,..." to recognize the "rights" in the Declaration. The

Declaration also emphasizes the child's need for love and understanding and says that "whenever possible" the child should "grow up in the care and under the responsibility of his parents". Since this "right" is not stated in absolute terms, the child's need for love and understanding might seem superior to that of growing up with the parents. In this case, then, the child's right to a loving family might be stronger than the parents' right to have and care for the child. In this Declaration there is little mention of responsibility, directly or indirectly.

4.3.3. TOWARDS A CONVENTION ON THE RIGHTS OF THE CHILD

A Declaration might be morally binding, but is not legally binding. The Declaration of the Rights of the Child was adopted unanimously by the United Nations General Assembly, which may have given it a stronger position than other Declarations. At that time a number of countries would have preferred a Convention, but the proposal was turned down because of the large economic, social and cultural differences and the divergent moral and religious views existing between the U.N. member states. A proposal of naming the document "The U.N. Pact on the Rights of the Child" was considered too binding, for example by the United States.

Both the 1966 International Covenants on Economic, Social and Cultural Rights and on Civil and Political Rights, which evolved after the 1959 Declaration have special articles on children. Between 1959 and 1970 there was an increased and widespread concern about human rights in general and about children, in part reflected in national constitutions. There was a growing public unease about children who had until then been considered "safe". While children in the wartorn countries of Europe, child refugees, child victims of the Atom Bomb and other catastrophe victims had caused compassion and concern, the rediscovery of child abuse (Kempe & Kempe 1963) awareness of which was spread through television as well as through professional journals, made many people realize that children may need protection even in well-off "civilized" countries.

In 1978, Poland presented a proposal for a Convention on the Rights of the Child, very similar to the Declaration, hoping to have it adopted the following year, 1979, the International Year of the Child. The Human Rights Commission asked the U.N. Secretary General to sound out the member States and other competent organs. According to Van Bueren (1988) Member States had seven reasons to accept the idea of a Convention:

1. The predominant attitudes to children had changed so that the Declaration no longer reflected the needs and hopes of children.
2. The Declaration was not effectively preventing discrimination of children. The United Nations must not only protect, but actively promote the rights of children.
3. The vulnerability and immaturity of children necessitates a higher level of protection than they could get through other existing instruments.
4. Implementation of the rights of children demand the use of other principles than interpretation and implementation of the rights of adults, i.e. the principles of "the best interest of the child" and "the evolving capacities of the child".
5. The need to collect in one document and to standardize the rights of children as presented in other instruments.
6. Neither the Declaration nor the two 1966 Covenants are complete where the rights of children are concerned.
7. The International Year of the Child gave member States an additional reason to accept the notion of a Convention.

The first Polish model Convention on the Rights of the Child was rejected by the Commission on Human Rights in favor of a treaty having more enforceable language. Late in 1979 Poland presented a more detailed model to the Human Rights Commission, which provided the framework for negotiations within the Working Group set up by the Commission to draft the new treaty.

The drafting of the Convention took nearly ten years. One unique feature of this drafting procedure was the way non-governmental organizations participated. During the first years the NGO's would present proposals and participate in the discussions. 1983 the International Catholic Child Bureau, Save the Children and Defence for Children International called a meeting of the NGO's which led to the establishment of an "NGO ad hoc Committee", with DCI as its secretariat. This led to well prepared comments and proposals from the NGO's, which were given serious consideration and might be adopted by the Working Group. The number of NGO's represented at the meetings doubled quickly, reflecting the deep concern of the NGO's for the Convention (Cantwell 1988). Another consequence was the change of attitude within UNICEF, leading to full representation at the Working Group meetings from 1985, support and increasing activity related to the Convention from then on.

The drafting process was a long one in spite of the fact that many of the rights were contained in other international human rights treaties. Problems arose between industrialized and developing countries as well as between East and West. For the Convention the Working Group reinterpreted existing rights to make them more clearly applicable to children, wrote in rights that have never before been included in international treaties, formulated States Parties' obligations to protect and assist children and established binding standards in areas where only guidelines had existed before. Unlike the Declaration nearly half the rights protected in the Convention could be characterized as falling within the category of civil and political rights, including standards for juvenile justice, the child's right to parental protection (which in turn gives the parents an obligation to protect their child), and the child's right to express "his opinion" (but not necessarily make decisions).

The Convention on the Rights of the Child was proposed and unanimously adopted by the United Nations General Assembly November 20, 1989, ten years after the International Year of the Child and exactly 30 years after the General Assembly had adopted the Declaration on the Rights of the Child.

The Convention and implementation and monitoring will be discussed in Chapter Eight.

CHAPTER TWO

The Capable Child

Introduction

A wide description of child development, or a survey of the detailed research on various aspects of child development as a science, are beyond the scope of this study.

This chapter attempts to focus on concepts related to the development of *competence* in children. During the last ten to fifteen years, there has been an increasing interest within both psychology and education on the importance of competence, the child's level and experience of ability, capability, expertise, mastery, proficiency and skill (all variously used as synonyms for "competence"). Experience of competence leads to feelings of achievement and accomplishment, and of self-respect. This concept can provide a positive foundation from which to proceed in working with children and for the rights of children. It was also an underlying premise for the work of the Ombudsman for Children Office (see Chapter Four, page 120).

In the United Nations Convention on the Rights of the Child, the concept of "the evolving capacities of the child" is apparent. In particular in connection with the child's right to partake in decision-making, questions are raised concerning whether or not the child has the competence for making decisions, at which developmental stage the child has adequate maturity to make which types of decisions. This question is often connected with the idea that there is a need to protect children from too much responsibility, from decisions that are too difficult, or from the consequences of unwise decisions. This idea is only legitimate in so far as there is a real need for protection or consideration of the child.

Child-related professions (psychologists, physicians, teachers) have described the development of average, normal children. Using "normal development" as a frame of reference, the focus of child developmentalists has often been on children who, in some way, have departed from the normal path. Their emphasis may then be on vulnerability in terms of possible traumas, on difficulties encountered with the child, his or her parents or in the feedback system between them, on weaknesses in contrast to strengths. With the rights of children to participate in decision-making now laid down in the Convention, it will be of particular importance to focus on the child's evolving capacities from a positive point of view, to try to determine which decisions children should or can make at different stages of development, what kinds of responsibility they are able to and can benefit from having and how their decisionmaking and responsibility-taking capacities can be encouraged, supported and enhanced.

1. Foci, emphasis and understanding in the study of children

1.1. Choice of focus and perception

The emphasis or choice of focus in psychology naturally influences the observer's perception and understanding of the child.

Different directions and schools of psychology to some degree still exist, and may serve to illustrate the influence of adherence to one or the other on perceptions of children. Nature versus nurture, heredity versus learning are classic controversies: the question of whether human behaviour can best be accounted for in terms of biologically given structures, motives and abilities, or in terms of qualities acquired through experience in a particular material, personal and cultural environment. Depending on whether emphasis is on nature or nurture may determine whether children are viewed as active agents, initiating behaviour and dominating the world as natural abilities mature and emerge or as passive objects responsive to and modified by accumulated skills, habits and learning experience. Whether the emphasis is on nature or nurture also has an impact on child rearing, on whether planning conditions for learning by reinforcement and rewards or conditions beneficial to maturation of understanding and insight are most important.

Explanations of the problems of children and how to treat them will also be different according to the dominant theoretical perspective.

A different kind of focus and emphasis is the matter of what kind of problem one is looking for or studying. An emphasis on psychopathology might, for example, lead to a focus on environmental factors (in the relationship between the child and the parents, in the school setting) which could explain the roots or the background from which problems occur. The explanation could be either in terms of learning theory or, for example, based on psychoanalytic theory. The "problem-approach" also emphasizes weaknesses, in the child, the parents and in the dynamics between them and therefore may lead to a tendency to overlook or de-emphasize strengths, capabilities and capacities of the growing child.

Similarly an interest in comparing the normal and the abnormal might lead to a research emphasis on *differences*, between "normal" and "abnormal" children, between children and adults or between children on different age-levels or in different cultures. If so, similarities may be disregarded or played down. Because young children do things in other ways than older children or adults, adult observers may have an incomplete picture of the capabilities of children, or too little understanding of the situation in which at least partial mastery takes place.

One of the major advances during the past years has been an understanding that different theories of development need not be contradictory, but can be complementary, giving an integrated, more comprehensive understanding of human development. The child is not a result of nature or nurture, of genes or learning, nor does development proceed through clearly defined stages or in a continuous smooth fashion. Development does not necessarily mean "improvement", but may periodically involve regressions to earlier stages of behavior. Also, different systems have different age-periods in which they develop and individual and cultural differences between children can be marked. Consequently, development is not synchronized in the sense that everything happens at the same speed at the same time, nor in all children at the same age, although the succession of events often follows the same pattern.

Different approaches may focus on different aspects of development. The biological approach highlights the organic bases of development, how development is affected by genetic inheritance or other biological influences such as hormones. The learning (or behavioral) approach focuses on how behaviour is molded and controlled by events in the person's environment and on how the individual's development is determined by which behaviours the person learns and how this learning takes place (i.e. through rewards, punishments and/or imitation). The cognitive-developmental approach emphasizes thinking processes (cognition) and how these processes change as the individual develops through series of stages. The psychodynamic approach focuses on the pervasive influence (unconsciously and sub-consciously as well as consciously) of emotion on thinking and behaviour and on how the ways of dealing with the emotions of relationships (particularly parents) change as the individual grows up. Because each approach concerns itself with somewhat different data and aspects of development and behaviour, in practice all four approaches are rarely used to explain a given phenomenon. The emphasis of theory will depend on the aspect of development under scrutiny and on the practical situation in which interpretation takes place.

1.2. "Sensitive stages" from the positive point of view

The concept of stages is common to the biological, cognitive and psychodynamic approaches, although the different types of stages do not always fall together. Biological development goes through stages, characterized by growth spurts. Different parts of the body and different systems have growth spurts at different ages or stages. According to cognition-theorists, a person acquires new abilities (but retains those acquired earlier) in stages. The main difference between Piaget and the neo-Piagetians seems to be that Piaget characterizes a person as being in a particular stage of development, so that when the person goes from one stage to the next, the developmental change may be abrupt, and fairly total: The person is qualitatively different from what he/she was at the previous stage. (Piaget does not, however, explain the transitions between periods). The neo-Piagetians characterize behaviour as being at a certain stage, and acknowledge that behavioral changes can happen abruptly. But such changes do not always occur all at once for different abilities, so the whole person does not change qualitatively. Each person can have different abilities at various levels at the same time, abilities specific to the context in which they are learned. So in contrast to Piaget, neo-Piagetians point out that unevenness is common in cognitive development. For an ability to become general, the person must learn how to apply it in different contexts. Abilities acquired earlier must typically be reorganized and recombined, but the period of development leads to a new set of abilities which are qualitatively different from those of the periods before and after it.

The psychodynamic view speaks of stages (e.g. oral, anal, genital, latency in Freud's terminology), sequential periods of development during which different aspects of personality development are "in focus". In this theory stages are seen as more global than the stages of cognitive development. Going from one stage to the next is more like being on the crest of a wave, with the movement starting in the previous stage and rolling on into the next, without the abrupt, step-like changes that may characterize cognitive reorganization. Yet while the wave is cresting, important capacities, like the capacity for trusting other people or the capacity for self-respect are particularly sensitive to impacts from outside.

One aspect of "stages" stressed by several schools of thought is "vulnerability" or "sensitivity": the part of a system (biological, cognitive or psychosocial-emotional) which is developing with particular speed is at that period particularly vulnerable or sensitive. A concern for possible damages may lead to an emphasize on the negative consequences of environmental impact: If, for instance, thalidomide is taken during the first weeks of pregnancy, the part of the foetus which is in a growth spurt (budding arms and legs) will be most seriously damaged. If toilet-training is particularly strict in the anal phase (according to Freud), this may have far-reaching consequences for the anal characteristics (thrift or squander, messiness or compulsive cleanliness) of the personality.

However, sensitivity can be emphasized for the positive consequences: during a "sensitive", "vulnerable" or "critical" phase, learning may take place which in earlier or later periods may take longer or need more effort. (Maria Montessori based much of her educational system on this principle). Accordingly the period from approximately four to five months to around one year is the "sensitive period" for establishing close emotional bonds to a few adults, ("Basic trust" in the scheme of Erikson 1968). Lenneberg (1967) speaks of a sensitive period for learning language, starting at age one or two, peaking at four or five years, but with no definitive end, although children at six or seven years speak as well as many adults for all practical purposes.

The nature of sensitive periods was first recognized by Jean Piaget. Watching his children grow, he recognized that any developmental progression goes in a burst of energy, followed by a leveling off and a consolidation, and then another burst. The period of disorganization in the beginning of a new step is what leaves the system open, so that the child and the adults can receive, provide and pass on new information.

Knowledge about periods of vulnerability or sensitivity can be useful in discussions of the development of social, emotional and cognitive skills or competence. Avoiding situations or experiences which are known to have negative effects during certain vulnerable stages can be one outcome. But knowledge of sensitivity can also help in the planning of child rearing practices, treatment and education. The planning of effective interventions when children are at risk or already in developmental trouble requires the identification of critical periods or opportunities (the "open windows" for communication) when the parents as well as the child are most receptive. Certain "critical periods" have been identified for infants by Brazelton (1987) in both industrialized and non-industrialized countries: the first is in the last three months of pregnancy when parents seem universally receptive to information. The second is during the first months of life when the language of the infant can be demonstrated to engage the parents' (or other caregiver's) heightened commitment. Two ingredients of an intervention that will lead to improved development have also been identified: timing and quality. Quality in this connection means that the intervention "must be of a kind that fosters the child's sense of competence and fuels his own internal coping strategies" (Brazelton 1987).

1.3. Intelligence, cognitive development and competence

The noun "competence" (see above page 51), has its counterparts in "competent" (meaning adept, efficient, qualified, skilled, expert and proficient) and in the somewhat wider term "capable" (which in addition means able, accomplished, skillful, apt, intelligent and smart). For the purpose of this text the words will be used somewhat haphazardly, but with the clear emphasis that "competence", "competent" and "capable" are more than - but may include - "intelligent", for reasons that are elaborated below.

During the first year of life the density of brain cell synapses increases more than at any later stage. By observation, experimentation and sensory and motor (later also verbal) interactions with the material world and people around them, children learn the language of his or her culture, key relationships within the social environment, how the physical world operates (e.g. cause and effect relationships, constancy of matter, weight, volumes) practically without formal tutelage.

There may be a general factor of intelligence which in part determines the speed of new knowledge and skills acquisitions. Parallel to the working of the genes, of which some are directed to growth in general, others to the development of specified subsystems, intelligence may be determined by a general and other specified factors. However, measurement of the "g" factor may not actually uncover a basic "general intelligence", but in stead reflect the composite result of the individual's performance based on experience in a variety of arenas. The "g" factor may be an artifact of measuring methods or the factor analysis method used by Spearman and others. For the purpose of this study, many issues concerning intelligence are not very important: whether or not there is a "g" factor, to which degree intelligence is determined by heredity and environment, whether or not IQ is something more than what is measured by IQ tests.

In connection with the issues of rights for children, conditions that affect development are important: Brain capacities develop at different rates, to some degree depending on environmental factors such as nutrition. Different skills depend on maturation of different areas of the brain. If activities in their turn stimulate the development of synapses, activity opportunities may influence brain development. Gardner (1990) defines an intelligence as "an ability, skill or set of abilities or skills, to solve problems or to fashion products, which are valued in at least one cultural setting". To avoid in this context many of the problems involved in discussions of intelligence, I prefer to use the term "competence". Competence seems to be the outcome of a process which may have several sources, one of which beyond doubt is intelligence. Gardner (1983) identified at least seven "intelligences", (or areas of competence, in my terminology) each with its own neurological base, its own phases of growth and its own unique contribution to exercising control. While Piaget's stages of development were based on sensory/motor behaviour, the later stages emphasize verbal/linguistic and logical/mathematical styles of thinking. Gardner maintains that these are only two of the spheres of intelligence/competence, the others being "intrapersonal", "interpersonal", "musical/rhythmical", "kinesthetic/spatial" and "bodily". There are sequences and steps for each of them, but the stages in one domain do not correlate with stages in the others, due amongst other things to the different maturation of brain areas. Therefore the different "intelligences" have different sensitive periods, and will be more or less predominant at different age levels. The kinesthetic/spatial and body aspects certainly seem most important during the earliest period of life, and will be most susceptible to the effects of for instance lack of nutrition, but will continue to be important later as well.

Underlying both problemsolving and product-making is a basic human motivation to understand and be control of the world (White 1959). The different conditions in different parts of the world will present different problems to be solved, different products which need making. Different people also necessitate learning different skills of empathy, self-understanding and self-presentation. Thus, intelligences - or competencies - are culturally defined and socially produced. Edgar (1991) puts it this way, "The nature of competence lies in real skills or abilities that are applied in real situations to solve meaningful problems or to fashion actual products that are socially valued". If competencies are based on the chances a child has to activate skills of language, space, mathematics, music, body experience, the self and others, it follows that intelligence or competencies are developed in relation to other people, and that learning depends not only on opportunities for experimentation with the material world, but also on the *social* opportunities given children to activate their potentials for growth. Competencies are cooperative, working with others to build, do, construct and solve problems. It follows that intelligence measured by tests for the individual, developed for one group of people in one culture, with somewhat similar experiences and learning opportunities will therefore not be suitable for people from other cultures. It also follows that the entire environment of the child in relation to one area of competence or the other is important for the cognitive development of the child.

2. Identity and competence

2.1. "Sense of inner competence" and "sense of self"

An explanation - or even a mention - of forces within or outside of the child that *cause* growth and development was often missing in earlier descriptions of child development, although it was evident to parents. What was the force driving the ten-month-old baby who turned away from his mother's breast with an expression that said, "I am a big boy now, too big for this", or the six-month-old child who pulled herself up to standing, hung on until she dropped, and pulled herself up again, over and over until she practically fell asleep? A two-and-a-half-year old girl was observed repeating sentences with the words "over", "under", and "between" for one hour without stopping, until she seemed to get the relationships clear in her mind, to her obvious satisfaction. What was the force behind this persistence?

Brazelton (1982) has developed a model for understanding the forces that propel a child along the normal path of development which encompasses the concept of competence. The three sources of energy are:

1. the maturation of the central nervous system, the most powerful and the most limiting force.
2. the external feedback system provided by parents and outside

environment.
3. the internal feedback system that provides the child from infancy with a sense of inner competence.

Mastering a new skill a child will repeat and repeat the behaviour being acquired, at times until the child is exhausted. The energy that has been mobilized to achieve the new developmental task refuels the realization of mastery, and in turn, the child is reinforced to move on to achieve the next developmental stage. This motivation is characterized by an intense concentration, enjoyment and persistence in the activity in question and is very visible in even small children who are just acquiring a new skill.

The internal feedback system, called by Eckblad (1979) "Intrinsic" or "spontaneous" motivation, depends on the maturation of the central nervous system, and is therefore vulnerable to e.g. the effects of malnutrition. A malnourished child will simply not have the energy to focus on and try new activities. Success in acquiring new skills or new understanding seems even in very young children to be a strong impetus for further growth and learning. It also provides a "sense of inner competence" which is an important element of the child's "sense of self".

2.2. Acquiring a sense of identity: a feed-back system

"A sense of inner competence" is a necessary, but not the only part of the process of developing a "sense of self", which also includes "self-esteem" and "self-confidence". The basis for experience of a "self" must logically be the perception of an "I" as something/someone separate from other objects/people. According to Mahler (1975) this perception of "self" develops through individuation and separation, particularly in the first months of life. Later the perception of one's own "identity", integrity, and value depend on the child's perception of success, mastery and control, but also to an important extent on the kind of reactions the child gets from adults. The child's perception and development of self-confidence and self-esteem may be positive, ambivalent or negative, reflecting the child's interpretation of messages from adults, particularly those who are important to the child. The *interpretations* may be correct or incorrect, as may also be the adult's interpretation of the child's actions and reactions. The child - as the adult - in particular perceives and reacts to those elements in the total situation which are of particular relevance to him or her. The adult reacts to his or her interpretation of the child's reaction, in a constant feed-back system. The interpretation of reactions may be one of several possibilities, particularly in situations where the message from "the other person" is ambiguous, or contains two *conflicting* messages, as in "double-bind" situations ("You are damned if you do, you're damned if you don't"). At least for the adult the choice of interpretation may be a conscious one ("He is so little, he can't be as devious as this looks").

A small child will be more prone to misinterpret because of the limits of intellectual understanding, egocentricity and lack of ability to decenter ("put oneself in the other's position", Piaget 1952) characteristic of the child before the age of five or six years. (Mother is angry. My stomach hurts. She is angry because my stomach hurts *(even though she does not know that yet)* so I am a bad girl). The possibilities for misconceptions are highest in the years when the basic self-perception, identity and self-esteem are established.

2.3. Decision-making and sense of self: a process that starts at birth

From birth the baby has the ability to attract adults' attention and so determines adult behaviour and actively (but not consciously) participates in the planning of family life. A wail or a grunt (or even a silence that lasts longer than expected) will bring caring, concerned parents to see what is wrong and administer to the child's needs. From then on a mutual learning takes place, as parents learn to recognize the evolving nuances of the child's signals (verbal and non-verbal) and the child learns new ways of attracting attention. A wail may not be sufficient, more continuous crying may bring results. Or banging the side of the crib might be more effective. (During this process the child may also acquire rudimentary experience in the rewards of persistence, or in trying alternative methods of problem-solving, in not giving up when frustrated, if the alternative behaviours lead to reactions from the parents). During the first years the child will learn which demands the adults will respond to and which they will not or cannot meet. In a sense this is learning which decisions the child can make and which the child can influence. Also the child learns when the adults will make decisions contrary to the child's wishes. A secure child, who trusts in the basic good will of adults, can explore the limits of what is allowed. The emotional undertone, the way in which mother (and father) set these limits, can be important determinants for self-perception. The general message may, for example, be "You are great, exploring is wonderful, but I must stop you to protect you". Then the emotional context, and the feed-back to the child's perception of self is quite different from the one that occurs if the message is "You BAD baby! How can you DO this to me! I HATE to have to watch you all the time!" (even if the overt message is quite different).

Also, realizing that there are limits to the kinds of decisions the child is able to make, the adult can support the budding decisionmaker without unduly quenching his or her self-confidence. For a child two years old, the act of deciding seems to be more important than what the decision is about. There are situations in which a decision is either impossible or at least impractical. A child - drawn between the demand-quality (Werner 1948) of the blocks inside and the snow and sled outside, swinging between two attractive alternatives (Lewin 1935), is unable to make the decision of whether to go out or stay indoors. Given the chance to make a decision, the choice between red or blue mittens is something the child can handle. Asked whether she wants to have dinner "now", a child will nearly as a reflex say "no". If dinner is already on the table, giving the child the option (by asking) of eating at once or later is offering the child the opportunity to make a decision the child actually will not be permitted to make. If she says "no" and father picks her up and carries her to the table, the message is "O.K. I gave you the choice, but since you did not make the decision I wanted, I'm not going to let you decide anyway". If repeated often enough, the child can learn that making decisions is no use.

As development proceeds, the complexity of decision-making, responsibility and self-confidence increases, particularly as widening circles of activity lead to interactions with peers and other adults as well as parents.

2.4. Social learning and social competence

Erikson speaks of the child's need to master ever widening "worlds", from the microworld of his or her body, the world of small objects to the world of large objects, parallel to the widening circles from "self" to family to the world of peers. In particular the term "competence" is closely related to Erikson's (1951) "Industry" discussion, with "superiority" (with the feelings of accomplishment and mastery) viz. "Inferiority" as the dichotomy of development during the latency years (age six to puberty). The developmental scheme of Erikson describes each stage as having roots in previous stages and possibilities for change in stages that follow. Consequently, "industry" - or the balance between mastery and inferiority - has roots as far back as in the "basic trust" stage (between birth and approx. one year of age) and in the "autonomy" stage (between one and three years of age). "Basic trust" is the basis for self-confidence. Learning the limitations of autonomy is the basis for a more realistic perception of how much an individual really can master the world of physical reality and of personal relationships, to be developed further in the realism of motor experimentation, peer relationships and cognitive understanding in the years of six to twelve years of age.

Social competence is first established in relation to adults, in the feed-back activities between baby and parents which start soon after birth. By age five, the child is capable of understanding simple reasons and rules, but does not yet know how rules are made. She is beginning to learn the "ifs" of social group activity: "If I do this, the others will not play with me". "If I do this, I can play too". The child is (at least sometimes) willing to modify her own wish or her ideas, her right to make decisions, in relation to the social functioning of the group.

Contact with and recognition by peers is something the child must gain. He or she must use language the other children understand. Unlike communication with parents, the child cannot get away with a private kind of communication. So competency at this stage is about understandable, common language communication as a well as about social relationships. Play is the important vehicle for learning how to solve the conflicts which occur in roleplaying. This type of learning is different from the learning children do in relation to adults, simply because peers are equals. Once a child has gained the ability to decenter (Piaget 1952) it is easier for him or her to decenter to the position of an equal than to the position of an adult, because identification with another child is a smaller move.

There is an increasing awareness of the importance of the learning experiences that children from the age of three to four years through their teens can only get in a peer-group (Frønes 1988). In a group of equals a child learns how a democracy functions, what the rules for making rules are (Piaget 1932, adapted 1955; Kohlberg 1968), which attitudes, skills and behaviors are acceptable amongst equals. The peer-group - in contrast to the family - is a group where belonging is not assured simply by membership. A child, amongst peers, learns when he (or she) is excluded and what the conditions are for joining again. He (or she) can also voluntarily leave the group, even "for ever", - with the family as a retreat. In the family, the child belongs, regardless of behavior. The family offers learning-possibilities that a peer-group cannot give: how to solve even longstanding conflicts in lasting relationships with people who care about the child regardless of what the child does, with people the child cannot get rid of (even when he or she briefly wants to do so) or who rarely seriously want to get rid of the child.

Consequently, children need to spend some, but not all their time with other children. They also need time together without adult control. The sometimes rough, but necessary learning amongst children, teaching each other how groups of equals function and how to solve conflicts amongst equals cannot be achieved if the groups are constantly controlled by adults. One interesting result of recent studies of "deprived" environments (Parker et al. 1988), aimed at identifying the strengths of these environments, was "Opportunities for play with peers and older children with minimal adult interference enhancing the development of self-reliance, self-control, cooperation, empathy and a sense of belonging".

Adults are useful as consultants, models and teachers. But children need a spectrum of different social learning situations, a continuum from solitary play (or even boredom) to the peer-group (without adults) to the mixed age-group even with adults as equal members, to adult-led groups and the close-knit stability of the family, spanning generations.

2.5. The positive cycle of a positive self concept

Recently, investigators (Rutter 1979, 1987) have identified the child's "sense of self" as a key determinant for successful developmental outcomes. It is suggested that children with positive feelings of self-esteem, mastery and control can more easily manage stressful experiences, which in turn leads to more positive reactions from their environment. They show initiative in task accomplishment and relationship formation. Even in stressed families, one good relationship with a parent reduces psychosocial risk. For older children a close, enduring relationship with an external supportive adult may provide a protective function.

A positive self-concept seems to be the starting point of a good cycle even under difficult circumstances, such as deprived environments: the child seeks, establishes and maintains the kinds of supportive relationships and experiences that promote successful outcomes. These successes feed back positively in the self-esteem and sense of mastery of the child, leading to further positive experiences and relationships, more success. The cycle can in this way become self-perpetuating.

Other children in difficult situations are demonstrating capacities for managing which at least raise questions: children in the streets, some as young as five or six years old, somehow manage their own survival. Little is known about the qualities they must have acquired during their very young years to be able to cope. If the child's "sense of self" is a key determinant of successful outcomes of difficult situations, these children must somehow have acquired positive feelings of self-esteem, mastery and control before they have abandoned or been abandoned by their families, (which does not necessarily mean that they have lost all connections with the families). But questions still remain. What kinds of supports do street children find amongst peers or other adults in their environment? How much or how little contact do they need with the supportive adult at home or in their home environment to maintain the positive effects of these relationships? What are they missing in terms of the less responsible learning, the play of late childhood and the role experimentation of adolescence? How do they function as adults? Which elements of learning and lack of learning are useful to them and which are more negative in terms of their adult lives? Could further studies indicate qualities of learning which might be beneficial to children in other cultures? Or more about what the absolutely essential inputs are for all children? What happens to the children who stay behind in the street child's family? Do they suffer more because they lack the energy to leave? Or do they benefit from the fact that there are fewer children for the parents to care for?

For children in industrialized countries other questions must be asked: Recognizing the value of play, have these children lost opportunities to learn to take on responsibility, for example, by sharing responsibility for family functioning? If their lives become all play and no work (except in school) how can they feel necessary?

Questions like these emphasize the need for more cross-cultural research on the development of competence in different life situations of children. The outcome of such research will be helpful in determining how development and participation rights can be met in different cultures.

CHAPTER THREE

A Brief Look at Norway

Introduction

To shed light on the question of why Norway established an Ombudsman for Children, it should be useful to look at Norway as a country and how the Norwegian society has changed, particularly during this century. The Norwegian family has also changed, creating a situation for children which is very different from the conditions under which adults (parents, grandparents and politicians) of today grew up.

This chapter describes these changes, and also attempts to reveal existing myths about the family situation and about the service system (the Norwegian "Welfare State") as it concerns Norwegian children. The Ombudsman tradition is a Scandinavian tradition, but only Norway has an Ombudsman for Children. Could one reason be that the service system, particularly where children are concerned, did not function as well in Norway as in Sweden and Denmark?

The final section looks at the Ombudsman institution, with the focus on the Ombudsman for Children, but also comparing it with other Norwegian Ombudsman Offices, leading up to the establishment process, to be described as the first part of Chapter Four.

1. Norway: a changing society

1.1. Some important historical trends

Norway is a spoon-shaped country, reaching up towards the North Pole. Forty per cent of its population (barely 4.2 million in 1987) live in the "bowl of the spoon", the rest mostly occupy the coastal areas. Warmed by the Golf Stream, the climate is less harsh than on Greenland and in Alaska, on the same latitude.

In 1814, when Norway became independent after 400 years of union with Denmark, the population was 900.000, 90% of whom lived in the rural areas, 80% of them making their living by farming and fishing. Since then, Norway has moved towards more urbanization, centralization, and industrialization, but even now less than 20% of the population live in cities with more than 150.000 inhabitants. (Oslo 470.000, Bergen 214.000, Trondheim 150.000).

Principles of equal rights, forerunners of the modern Ombudsmen (who work for weaker groups within society), had won acclaim early. Women gained access to higher education in 1884. All men over 25 years could vote after 1898, and women got the right to vote in local elections in 1910, in general elections in 1913.

Norway was neutral in World War I, but suffered from invasion, occupation and damages in World War II. Norwegians resisted the invading forces in many ways, increasing the feelings of national independence and solidarity. The years following World War II was a period of reconstruction and rebuilding, of a damaged and poor country. After the hardships of the War, there was, in spite of the continuing difficulties e.g. in the paucity of basics (food rationing lasted until 1950) a unifying feeling of concerted effort amongst the adults (who had been children during the Depression of the 1930's). Children born in 1940-45 grew to adulthood in the 1960's, when there was a very marked change in the economy, the "oil-boom".

After World War II, the Labour Party (established about 100 years ago, reflecting the struggles for equal rights of the poor and the weak) became the largest political party, peaking in 1949 with 85 of the 150 seats in the Storting. In 1969 the Labour Party had 74 of 150 seats, in 1973-77 62 of 155 seats, but a newer socialist party (SV) then won 16 seats, together the two had the majority. During this period the social welfare system was further developed, e.g. with substantial increases in public child support and in the number of "well-baby"-clinics. Free (or nearly free) health services, old age pensions, social welfare benefits and unemployment support (paid for through the tax-system) were established. No large party would now abolish these services completely, although the general tax-level involved has been an important issue in late elections.

The socialist block declined gradually. Since 1981, they have not had a majority together. (In the 1989 general elections Labour got 63 of 165 seats, SV 17). The Liberal party declined gradually and lost its last seat in Parliament in 1985, while new parties were formed, giving a much wider spectrum of political divergence than before World War II. Except for the period 1966-71 and 1981-86, and following elections in 1989, the Labour Party has had the Prime minister and Council of State, but neither Labour nor the conservative coalition Councils of State have been in absolute majority, having to rely on other parties for support on various issues. Thus the political picture has been less stable than it might appear on the surface, less socialist than the party often controlling the ministries might indicate.

The "oil-boom" led to enormous optimism, followed by realism, as oil prices went down. But the "boom" gave rise to new industries, development of new technologies, and further development of the social welfare system. Unemployment has been low in Norway compared to other European countries, decreasing until 1986, with a slow increase 1986-1987, more rapidly in 1988, 1989 and 1990.

Inflation increased from between 5 and 6 per cent in 1978-79 to 13 per cent in 1981 and 1982, and 9% in 1986, (Government Finance Statistics Yearbook, 1988). In 1989 the average consumer price index was 5 per cent, following wage-freeze in labor negotiations in 1989. During these years there was, consequently, an increasing strain on family economy and an increase in families with two incomes.

1.2. The changing Norwegian family (1900-1960)

Changes in society reflect changes of attitudes, values, principles and ideas. But changes in societal structures, political diversification, and national economy are not the only noteworthy changes. The family, considered the nuclear unit of society, has also changed, partly causing, partly reflecting the developments in society.

The Norwegian average upper-class couple 150 years ago had an age of marriage of 18 years for women, 31 years for men (Sogner, 1984). They had 11 children, three of whom died from diseases like diphtheria, tuberculosis, measles before the age of five. Seven of their children got married in the 1860-70's, producing 38 children. Twenty-eight of these children got married around the turn of the century, producing 76 children. The couple from around 1840 had 11 children. Their children had five or six children each, and their grandchildren had an average number of two to three children. In 1889-92 the average female bore 4,4 children. The number of childless women was higher, so the average number of children in a family with children was seven to eight. Children born in 1920 had an average of 14 aunts and uncles, 28 counting spouses and 60-65 cousins. (The birthrate in 1920 was 3,4). The increased use of methods of family planning was, according to Sogner (op. cit.) a consequence of decreased infant and child mortality, itself a consequence of better medical understanding and education and improved health services. The birthrate dropped to 1,9 in the 1930's, but rose to 2,7 in 1966-70. The children born in 1950-60 became the parents of children born in 1975-85. The total number of Norwegian children born in 1982 was the same as in 1882, but the total population had doubled.

Descriptions of the family in the beginning of this century (Sogner 1984; Tonnesen 1982) indicate that children in general saw little of their parents. Children from the tiny farms, the families of fishers and factory-workers might, due to economic pressure, be sent to live and to work in other families, boys as apprentices or factory workers from the age of six or eight, girls in domestic service from the age of 10. Low and uncertain family income demanded that both parents work, often 14 to 16 hour days. The children of these classes were mostly brought up by each other and by the school (compulsory since 1739). But they were also, even in the free time they had, under the watchful eye of employers and other adults, workers on the farms, craftsmen employed in the neighborhoods, grandparents or other relatives, as well as older siblings.

In the "upper classes" the children of the family were brought up by female servants, who might be the daughters from the farms and factories. The mistresses of the house were admonished to teach basic manners to these girls "who had no manners whatsoever, coming from amoral, filthy, and uneducated families" (Rudberg 1983, my translation). The lady herself could not be expected to spend much time with her children, since "there were so many other matters of greater concern that the lady, in spite of what she might wish, hardly would have the time to see to her children" (op. cit.). Governesses, nurses or other servants would have the main responsibility for young children, with school as an additional factor after the age of seven.

In the 19th century adults accepted the number of children they got as a blessing or the opposite. Children might provide cheap labor or be important for the total income of the family, an insurance for the old age of parents or vehicles for the hopes and dreams of parents. By means of their offspring, properties could be combined or the socio-economic standard or prestige of a family could be improved.

In terms of bringing up children, the dominant trend was clearly authoritarian. Independence and autonomy were not encouraged, particularly in children under school age. Even in school absolute obedience was required, beating "evil" impulses out of children accepted, and the aim was often to demand and promote adult behavior as soon as possible, from the tender age of one or two years. Boys were believed to have an inborn respect for physical authority, which was to be strengthened by use of physical power, i.e. corporal punishment. Some experts in Norwegian books and magazines even as late as the 1920-30's, recommended such treatment for girls as well, e.g. to quench "rebelliousness". Parents who did not have books relied on advice about bringing up children given by their own parents, elder siblings and other adults in the vicinity. Some historians also note a certain degree of "laissez-faire", particularly amongst "lower class" parents who seemed to believe that fate alone would determine the future of the children. Then it did not really matter what parents did. Slaps and other forms of discipline were more an expression of irritation on the part of the adults than well-considered methods for bringing up children. Traditions and advice were freely available and accepted at least in certain situations, often ones that caused worry or irritation for the parents. If a young mother 75 years ago had problems breastfeeding, her 14 aunts, her mother, her mother-in-law, perhaps neighbors and servants, were ready to offer advice. The various pieces of advice might be contradictory, but the support-system was evident. Tired of keeping baby clean, advice as to when toilet-training could start would obviously be welcomed, particularly if this training "should start" practically from birth.

As described in Chapter One, views on children and childhood changed from 1920-30 due to the influence of child psychology, particularly after World War II. The child was now seen as a person in his/her own right, demands and expectations to be tailored to the developmental level of the child.

In the 1930's several factors contributed to changing patterns in family life. Shorter working hours for employees, increase in wages, and increase in public economic support (unemployment benefits) were part of the picture, although the term "Welfare state" was not used until 1945, child allowance introduced in 1946. Women entering the labor force from choice and as professionals were part of it too. But even then, if a mother of the better-off families (whose daughters would be the mothers of the 1960-70's) had a part-time or full-time job, she would have at least one servant at home. (In one of the early books for parents (Koht 1942), one illustration sub-title is "Talking to Nanny"). In the lower-class families the dream of managing on one salary seemed to be within reach, becoming a real option in the 1950's. This was partly due to public housing policies, with relatively low price for housing, combined with low interest rates. An apartment would cost approximately 25% of a total annual salary, the interest rate was six to seven per cent. With high inflation and tax rules which allowed deduction for interest paid, the value of housing increased, but the costs remained low. The reduced taxes and value of the Crown meant that a large part of the housing costs were actually covered by public funds. Selling an apartment acquired in the 1950-1970's generally left the owners with quite a bonus. (Now an apartment costs the equivalent of two-three years' salary and the interest-rates are doubled).

2. The Child in Norwegian legislation

Recognition of children in Norwegian law goes back 700 years. The penal code (Gulatingsloven and Magnus Lagabøters Rettergangsbot) of the 13th century stated that children were not to be punished as harshly as adults. Adults might lose both hands for stealing, children "only" one. Children (but only the ones born in wedlock) were recognized as heirs to property in the 17th century, and Church legislation (from 1685, still valid) recognized children as legal subjects in connection with christening.

Magnus Lagabøters Rettergangsbot also stated the right of an illegitimate child to be provided for, by its mother until the age of three, and by its father until the age of seven. Later law amendments set the age-limit for the father's obligation to age ten, then, from 1821, to age 15 years. The point in this connection is the fact that even the child of un-wed parents (at least when the liaison was recognized[1]) was given a right to provision 700 years ago, although it was formulated - not as the right of the child, but as an obligation for the adult.

In 1630 the first legislation was adopted which indicated that public authority might supercede parental authority. Public guardians were appointed in the townships, responsible for taking over if parents, after due warning, did not get their children to school or in useful occupation. (School was not compulsory at that time). Vagrant children were not to be tolerated. It is doubtful if the provision aimed at protecting the children themselves or society against the damages these children might cause. The institutions some of these children were sent to are described as a combination of penal institution, labor training and "education". Following some changes made in 1605, 1609 and 1620 the "Children's House" was established for orphans and children whose parents could not provide a vocation. Children would be admitted if they were tramps, beggars or otherwise causing problems in the community. Discipline was strict, working hours long. But the children (400 boys "graduated" before the institution was closed in 1650) did learn a trade as weavers, spinners, or dyers. The creation of an institution of this kind indicated a sense of responsibility on the part of the State towards particularly helpless children. (Sigsgaard, 1979).

The first legislation directly concerned with improvement (religious and moral) for children (and society) was the Public School Act of 1739 (see above, Chapter One, page 25). In the 1880s several new laws were proposed. "Protection of children was in the times". (Seip, 1984). Protection of children was the motivation for a new child welfare law. Lack of care led many children born out of wedlock to become criminals and tramps. Labour legislation was under preparation. One motive was to ensure better health for the growing generation. Consideration for the child and for society led in the same direction. Conditions which might lead to adults who became burdens for society must corrected, and led to societal reforms, including better protection of and provision for illegitimate children. Legislation passed in 1892 obliged both parents to provide for the child and special supervision of conditions for children in fosterhomes. However, with regard to provision, the mother was obliged to require compensation, which many of them did not have the strength to do, and the supervision of fosterhomes was simply not done. So the actual change in practice was negligible.

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[1] The Norwegian word used was "frille" for which I have found no translation. "Frille" was approximately a mistress, but did not necessarily mean that the woman lived in the same household nor was given other privileges than a recognition of the fact that she had a relationship with a rich/noble (or royal) man and thus might bear his child(ren).

The next milestone was the Child Protection Act, passed by Parliament in 1896. In so doing Parliament established a new principle: Care for neglected children was the responsibility of the State. The group of children encompassed by the law were children who had committed criminal or depraved acts, truants from school, children neglected by parents, and children who "might be expected to develop warped personalities" (Seip 1984, my translation), e.g. guilty, innocent and potentially guilty children. The purpose was first to remove the child from unfortunate circumstances, second to give the child the upbringing the child needed, in an orphanage, reform school or other special institution. Seip points out, "The element of help was weaker than the element of upbringing. The element of punishment was obvious, so obvious that even when the proposal was discussed, some parliamentarians pointed out that the social aspects had been sacrificed for the benefit of control and punishment. Special institutions and reform schools might help some children, but were at least highly effective in isolating these children from society in general. Conditions were so bad that the first public scandals hit the news in 1908". (Seip, 1984). Rotten and moldy mattresses, open and un-clean urinaries in the dormitories, wet and ragged blankets, a headmaster who beat the children with his cane regularly were parts of the daily life of children placed in such institutions, in 1913-14 approx. 150 children.

A growing understanding of child development combined with new ideas leaning towards treatment rather than just imprisonment for criminals in general led to reforms, to new legislation as well as amendments of prevailing legislation, e.g. the Child Protection Act, and the School Act.

Legislative changes may either reflect changes in understanding, changes of attitudes that have already taken place or they may be aimed at accelerating such change. Probably at least a degree of change must be under way to give sufficient understanding and acceptance for amendment proposals. Some changes, therefore, need a long period of time before being reflected in law. As early as in 1821 the Norwegian Parliament debated the question of "legitimate" and "illegitimate" children, i.e. children born in and out of wedlock. The different status of these two groups of children was gradually diminished, but amendments with the aim of erasing the main existing differences was not finally passed until 160 years later, in 1981, in the "Parents and Children Act". Even then some distinctions remained, i.e. the child's visitation right following parental separation which still depended upon whether the parents had lived together after the birth of the child. (This was proposed and debated in 1979, but the distinction was then upheld and was finally changed in 1988).

Current Norwegian legislation reflects a general acceptance of development as gradual, responsibility and rights to be attained at different stages in the progress from dependent baby to autonomous adult. This is reflected e.g. in a current Norwegian list of 25-30 different age-limits (See Appendix Four). A more recent development is the tendency to increasingly recognize children as legal subjects, with their own legal rights. The School Act gives the child the right (and the obligation) to go to school, a right which in many other countries is given to the parents on behalf on the child. A more recent example is the Parents and Children Act. This Act no longer uses the term "parental authority", but the term "parental responsibility". The parents have the responsibility to provide for the basic needs of the child and responsibilities which follow from the rights of the child. They are e.g. responsible for co-operating so that the child really can enjoy his/her visitation rights.

3. The Norwegian service system for children and parents: A safety-net with holes

The principles of the Norwegian welfare system are simple:

- Necessary services should be available to all - the more necessary, the more easily available - regardless of individual income. The cost should be covered mainly by public funding, through a personal income- and property-tax-system which both diminishes financial differences caused by different income-levels and "spreads the expenses" over wage-earners' working years. Hardly anyone with a salary pays less than 20% tax, most pay 30-50%. This may seem high, but covers health, school, and old-age pensions, in addition to all public services.
- The other principle is that most help should be provided for those who need it most, and thirdly
- the state should act with preventative measures to meet the problems created by the social changes which the welfare state precipitates - or at least intervene with post hoc solutions to problems which emerge.

The system does not always work according to its own principles. Particularly when local and national economic resources are diminishing, while public social expenditures increase, new means of funding are discussed, e.g. in the health sector, by partial payments for some health services, or by establishing private clinics (although supported through public funds) for patients able to pay. Nevertheless services in Norway for children and families, while "spotty", in many community areas do have a level unknown in many, many other countries.

One reason for the establishment of an Ombudsman for Children in Norway, but not in the other Nordic countries, may be that the social welfare system in Norway did not have the emphasis on children seen in Sweden and Denmark. These countries also have recent histories of social democratic government, reflected e.g. in the child welfare systems and the schools. But in Norway there are significant gaps on the "cradle" end of the "cradle-to-grave" system, as noted by non-Norwegian observers - lack e.g., of a maternal and child health division and other "standard" offices focused on children's interests, an isolation of schools from other services and a lack of a comprehensive family social support system; with poor standing of Norwegian children on many variables relative to other Scandinavian countries (Melton 1989, personal communication). "There is also a tradition of individualism and local control (unlike Sweden) that negates the strong-state, social welfare tradition to some extent". (This may be one reason why Norway, in 1972 following a referendum to the people, did not join the European Common Market, while Denmark did). The tradition of local control is reflected in the combination of a sparsely populated country and the high number of semi-independent municipalities. The country is divided into 20 counties and 438 municipalities. Only 97 municipalities have 10.000 or more inhabitants, 252 have fewer than 5.000, including approximately 1.500 children. Sweden, with twice the national population, has only 270 municipalities.

"Although a basic "safety net" of income-support and health programs is universally available to Norwegian children, their welfare is poorer in many respects than that of children in other Nordic countries, with some gaps in services that are common even in countries with substantially less commitment to welfare-state ideology..." (op. cit.). One example is the lack of preschool education available to Norwegian children. France (according to the vice-minister of Education, speaking in Oslo in 1988) has 100% coverage for five-years old, 100 % for four-year-olds, but "only" 93% coverage for three-year-olds. School starts at age six in France. In Great Britain school starts at age five. Four and five-years olds attend nursery schools if their parents wish. Sweden and Denmark, where school also starts at age seven, in 1987 had 56% and 55% preschool coverage respectively. In Norway 30% of all children under age seven can have any preschool opportunity, some of these in programmes two or three hours two or three days a week.

Looking more closely at the reasons for these differences, with childcare as her focus, Leira (1989) in comparing the three countries says: "Examining the policies concerning mothers' earning and caring commitments, I find the notion of a common Scandinavian "model" of reproduction policies is exaggerated. The results of policies, particularly as witnessed in Norway, also do not fit well with the "model" of the Scandinavian welfare states as institutional in their overall design... State-sponsored childcare represents a substantially larger share of the total supply of services in Denmark and Sweden than in Norway. Moreover, the policies of the three countries appear to be grounded in different images of the mother-child relationship, and of the relation of family policy to the economy. In Denmark and Sweden the economy's need for labour was integrated into child policies to an extent not seen in Norway". Leira goes on to point out that in Norway informal child-minding and social network-based arrangements are not included in legislation and are therefore outside the state's sphere of responsibility. The actual provision of day-care by local authorities is not mandatory. "The welfare state recruits women to the public sector labor market, but the problems of childcare remain the responsibility of the families, particularly the mothers. ...The welfare state is supposed to take care of those who cannot care for themselves, but care in itself is not esteemed" (op. cit.). A gap is thus created between employed women and private childminders because the latter cannot get the labour-market entitlements of those employed by contract. The costs of informal and private arrangements are carried by the mothers. The child-minders are a bufferzone for the state, by providing vitally necessary care at a very low cost. "When employment policies and childcare policies are assessed in context, I find the relationship to be one of ambivalence and contradictions as well as one of mutual dependence, which presents the Norwegian welfare state as Janus-faced in its approach to employed mothers" (op. cit.).

Other reports (e.g. Gullestad 1984) indicate that Norwegian families tend to separate "family life and family matters" into a private domain, to maintain individualism by preserving a barrier between home and the social world outside, perhaps because family in many ways is touched - and may feel intruded upon - by "the machinery of the public sector".

The differences described by Leira concern preschool children, but the same kinds of pattern can be seen with regard to older children. School hours are short, and in Norway public care facilities are practically non-existent, while in Denmark any child who needs looking after before or after school hours can attend a "free-time home". Norwegian schools do not provide meals, Swedish primary and secondary schools serve a hot meal in the middle of the day.

4. The Norwegian family of the 1980-90s

4.1. Family structure

The description of the Norwegian family of today demonstrates that the trends of the first half of this century have continued. Following a brief "baby-boom" after World War II, in spite of the drop in birthrate in the pre-war years, the birthrate has dropped steadily, but is expected to rise somewhat from 1987 into the 1990s, following fluctuations in 1966-1986.

In 1960 61.880 children were born in Norway. They are now 29-30 years old, many of them parents of children born in the late 1980s. In 1980 the number of new-born had fallen to 51.000, rising in 1987 to 54.000. The birthrate was 1,7 in 1986.

Table 1. Norwegian population.

<table>
<tr><td colspan="5">Jan. 1, 1987: Total population: 4.175.520
Population 0-17 years: 1.011.530</td></tr>
<tr><td colspan="5">Distribution:</td></tr>
<tr><th>Age</th><th>Boys</th><th>Girls</th><th>Total</th><th>% of pop.</th></tr>
<tr><td>0-6 (born 1981-86)</td><td>184.107</td><td>174.582</td><td>358.689</td><td>8,6 (6 cohorts)</td></tr>
<tr><td>7-12 (born 1980-75)</td><td>166.908</td><td>159.884</td><td>326.792</td><td>7,8 (6 cohorts)</td></tr>
<tr><td>13-15 (born 1972-74)</td><td>98.693</td><td>93.923</td><td>192.616</td><td>4,6 (3 cohorts)</td></tr>
<tr><td colspan="5"><i>[7,8 (5 cohorts)</i></td></tr>
<tr><td>16-17 (born 1970-71)</td><td>68.404</td><td>65.029</td><td>133.433</td><td>3,2 (2 cohorts)</td></tr>
<tr><td>Total</td><td></td><td></td><td>1.011.530</td><td></td></tr>
</table>

NOS. Population Statistics, CBS.

Children are a minority group in Norway (table 1), as in other European countries. At the turn of the century children under 14 years constituted over one third of the total population. In 1970 there were four children (aged 0-14 years) per adult over the age of 70. In 1984 children under 14 accounted for one fifth of the total population, and there were two minors per elderly adult. The proportions, given a stable birthrate, are expected to be one "under 14" per elderly in 2020, the percentage of children in the total population then decreasing to 15%.

Contrary to popular beliefs, the most common Norwegian family does not consist of two adults and two children (table 2).

Table 2. Types of families/households (Jan. 1, 1987).

	Number	%
Single persons	756.880	41,3
Couples without children	310.812	17,0
Couples with unmarried children regardless of age	587.934	32,1
Cohabiting with children	26.767	1,5
Mother with child(ren)	125.055	6,8
Father with child(ren)	25.981	1,4
Total number of households	1.833.429	100,1

"Facts about Children in Norway" 1991.

The number of families has increased by 14% from 1977 to 1987. In the total number of households, the number of families with children living at home is only 42% (35% in 1985). The number of children, however, has not increased, so the size of each family is decreasing. This is also reflected in the fact that while 13,5% of all children in 1985 had at least one elder and one younger sibling, only 12% had "both kinds" in 1988.

Table 3. Siblings.

Only child	252.000
Children with one sibling	515.000
Children in families with 3 or more children	360.000

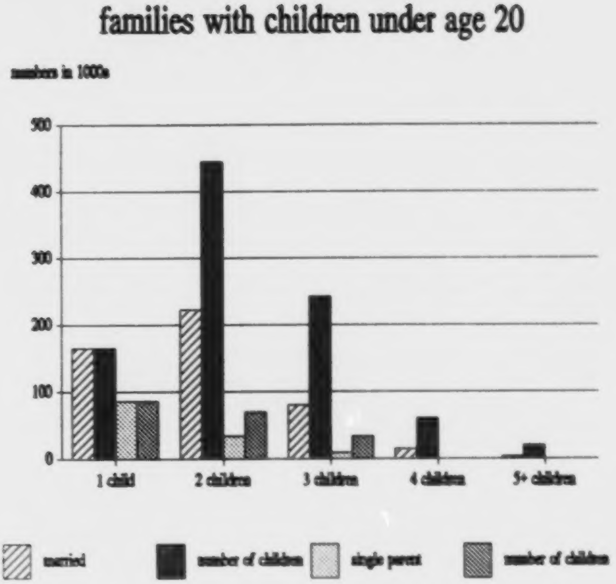
Approx. 130.000 children (12% of all children) have older and younger siblings. 45% of all children have either an older or a younger sibling. 20% are only children, but approx. half of them get a younger sibling in the following years.

Table 4. Families with children under the age of 20.

	N° families	N° children
Married couples with children:		
parents with 1 child	165.509	165.509
parents with 2 children	222.432	444.864
parents with 3 children	80.791	242.373
parents with 4 children	15.072	80.288
parents with 5 or more children	3.654 approx.	20.000
Single mothers:		
with 1 child	74.259	74.259
with 2 children	30.128	60.256
with 3 or more children	8.359 approx.	30.000
Single fathers:		
with 1 child	12.077	12.077
with 2 children	4.885	9.770
with 3 or more children	1.137 approx.	4.000

Single mothers include unmarried mothers living with the child's father. Number of children in each such family is un-known. The total number of such families is 26.767.

Figure 1.



The most common family with children in Norway has two children, 78% having more than one child (fig. 1). But families with more than two children are less common in 1988 than in 1985, the number of children in families with three or more children going down from 395.000 to 360.000 during this period.

Another trend is the increase in numbers of single-parent families. The divorce-rate has more than doubled from 1970 to 1987. Not all divorces involve children, at least not minors. The picture as far as the children is concerned is also complicated by two factors: increases in cohabitation and in remarriages. In Norwegian statistics un-married mothers are called "single mothers", regardless of whether they are living with the child's father or not. The number of children with the same address as both mother and father include 88% of all children under age two and 80% of the 14-17 year-olds. Approximately 9.000 children are involved in a divorce every year. This is not the total for all children who experience parental separation, as the splits in co-habiting, un-married parents do not appear in the statistics. On the other hand, this does not necessarily mean that all these children have "single-parent"-families for the rest of their lives. The number of remarriages has doubled in the past 15 years, and the number of new, stable - but un-married - couples is un-known. Likewise the duration of "single" parenthood in each case or as an average is not known. But the number of statistically single-parent families is rising, and single-mother families have a more difficult economy than any other type of family, in spite of public support, while couples with children under seven years of age are not much better off.

Table 5. The economy of families.

Family income seen in relation to number of persons in household and their ages.
Setting the average income-level pr. person to 1.

Couples without children, the eldest 45-64 years old	1,34
Couples with children over 20 years of age	1,24
Couples with children 7-19 years of age	1,00
Single persons over 65 years old	0,84
Couples with children under 7 years of age	0,82
Single mother with chil(ren) 0-19 years old	0,72
Single father with child(ren) 0-19 years old	1,03

In practical terms this means that single-parent families use a larger percentage of their income for housing, have less technical equipment (e.g. freezers) and a majority of these families do not have a car, unlike 94% of other families with children.

(Adapted from "Facts about Children in Norway" 1990).

4.2. Working mothers

The difficult financial situation of families with children is one reason for an increase, particularly during the past 20 years, in the number of mothers with jobs outside the home. A better understanding of the effects on children and what conditions must be offered when both parents work, combined with the wish to carry on their profession, not lose out in competition with male colleagues also contribute. How many parents would prefer to stay at home to care for children, if they could afford it, is unknown. But an increasing number of mothers have an outside job and the number holding full-time jobs is also going up.

Table 6. Working mothers.

	Total		0-2 years		3-6 years		7-10 years	
	1976	1985	1976	1985	1976	1985	1976	1985
	%	%	%	%	%	%	%	%
All mothers	53	71	40	55	48	70	64	75
w/1 child	60	75	50	70	55	75	68	74
w/2 children	51	70	35	55	49	68	61	78

In 1985 42% of the mothers worked 35 hours or more per week.
NOU 1987: 9A + 9B Working hour reforms (pp. 57-79).

Single mothers are more frequently employed outside the home than married mothers and more often have full-time employment. Fathers in practically all cases have full-time jobs. The number of fathers of small children working two jobs, or overtime, is higher than for bachelors or fathers with older children. Particularly to small children, fathers are not very available. Children 0-15 years of age spent an average of 6,6 hours daily with their mothers, 4,1 hours with father. Most of the time spent with father is also in the company of mother. Boys spend somewhat more time with their fathers than girls do. With increasing numbers of siblings, time with father decreases, time with mother increases. More children reduce mother's working hours somewhat, but this leads to an increase in father's working hours, to keep up total joint income. Father is less available (or willing) to take over from mother. Even in families where both parents have professional, high-status jobs, mother has to put pressure on her mate to share responsibility for the children as well as the housework.

If mother has an average, part-time job and the child is in first grade, the child has 16 "working" hours per week, mother has 26 hours at work. The child is in school 185 days per year, mother works 230 days. The child has 12, mother 4 weeks of vacation (not including Sundays or other national holidays) per year. Schoolchildren have 50 more days of holiday per year than working parents have, not including summer, Christmas, Easter vacations or public holidays.

4.3. Changing conditions outside and in the family

The families' patterns of living are changing, in response to other developments of society. Moving has become more frequent, either from rural to urban or suburban areas or from one such area to another. Up-rooting the family to go where the jobs are or to improve living conditions are not as common as e.g. in the USA. But every third five-year-old has moved at least once. Both types of move imply moving away from relatives or friends. Moving to suburbia typically involves more use of a car; new housing developments have as many cars - at least - as there are families. Moving into a city also means more exposure to traffic. Traffic-accidents with a lethal outcome occur more frequently on roads through more sparsely populated areas (higher speed, lower driver expectancy of children playing), but accidents leading to severe damage occur, not in the inner cities where speed is low, expectancy high, but in areas with many children and many cars, such as housing areas.

One of the changes in life-style is closely connected with the mass-media, in Norway as elsewhere. The developments have come mostly in the combined area of television and video. Norway has only one public television channel - the only one available with Norwegian language programmes. In the beginning of the 1980s television started at 6 p.m. and closed down at around 10-10.30 p.m. There is no advertising in this channel. A minority of Norwegian families could also watch the two Swedish channels (and understand what was said). During the past 8 years, the number who can watch Sweden 1 and 2 has increased. Also cable-TV and parabola-antennas have made it possible for many families to watch TV around the clock, mostly in English, with advertisements. An increasing number of families also own more than one TV-set - "one for Mom, one for dad, and one for me" - families more seldom watch TV together. In addition 30% of all families own a video-recorder and videos can be rented at gas-stations as well as in special stores. Adolescents are the most frequent users, often watching videos in situations where their parents are not present, e.g. at their own gatherings.

Exposure is low compared to many other countries, but increasing. Three-year-old children watch an average of one hour pr. day, six-year-olds 1 1/2 hours, if they can get only one program. With parabola antennas or cable-TV the number of hours doubles. Teenagers, below age 16, are the most avid TV-users, with the elderly matching them; both groups watch television at least 3-4 hours per day, while the set may well be on 6-8 hours (T. Waage, 1988).

4.4. The Effects on Children and Families

Little research has been done to demonstrate the impact on children of societal changes. It is, however, possible to speculate, based on available knowledge.

During the past 75 to 100 years the infant mortality rate in Norway has dropped to eight per 1.000. Amongst the lowest in the world, it is higher than in Japan, Sweden, Finland, and Iceland, indicating that more could be done to prevent these deaths. The Norwegian child population has been considered 100% covered by vaccination-programs, but recent signs indicate that coverage is no longer as good, partly due to increased mobility, partly due to an increase of immigrants unfamiliar with the health system. Death from any one illness is less frequent than death caused by accidents. Norwegian children are generally healthy. 223 children died before the age of 15 in 1986, illness (e.g. meningitis, cancer) accounting for 126, accidents for 97 of these deaths. Traffic accidents killed 49 children, drowning 16, burns six, and suicide accounted for seven deaths.

Norway has twice as many accidents among children as Sweden and a very high percentage occurs within and very near the child's home.

Table 7. Accidents.

Norway has more deaths by drowning than any other country in Europe. (These deaths are not due to our long coast, but often occur in water no more than a few inches deep).

Age distribution:		
0-3 years: Total number: 27.500		
Home, yard	**80%**	**22.000**
Road	**7%**	**1.925**
Preschool	**4%**	**1.100**
Other play areas	**4%**	**1.100**
Miscellaneous	**5%**	**1.375**

Age distribution:		
4-7 years: Total number: 28.750		
Home, yard	**50%**	**14.375**
Road, street	**20%**	**50.750**
Preschool, playground	**15%**	**4.314**
School, playground	**5%**	**1.438**
Sports, leisure, mis.	**10%**	**2.875**

Age distribution:			
8-14 years: Total number: 68.750			
Home, yard	**20%**	**13.750**	**Since the 8-14 year-old group is twice as large as the other two, the actual rates for cohorts is approx. the same, while the patterns change from group to group**
Road, street	**20%**	**13.750**	
School, playground	**25%**	**17.107**	
Sports	**15%**	**10.312**	
Leisure activities	**10%**	**6.875**	
Miscellaneous	**10%**	**6.875**	

(Researcher J. Lund, Nat. Inst. Pub. Health, in "Facts about Children in Norway" 1991).

Many parents are afraid - with good reason - to let their preschool children play outside unattended, and many are worried every day when older children are on their way to school, to friends, to free-time activities, due to the hazards of traffic to pedestrians, particularly the young ones. Parents do not, however, worry so much about the indoor accidents. They seem - in contrast to Swedish parents - to feel that "accidents will happen" and that "children must learn from experience". Parents seem so afraid of overprotecting or making "sissies" of their children, that necessary protection may be inadequate. (J. Lund, 1989).

The nuclear family rarely includes more than two generations. Parents no longer have a "built-in" support-system, so parental responsibility rests on parents alone more than before. New support systems can be difficult to establish, particularly if the family moves frequently. The services meant to provide some compensation (well-baby clinics, preschools) do not fill the gap.

Single parenthood means strained economy, but also diminished possibilities for sharing the cares, worries - and joys - of parenthood. Many single parents establish new relationships. While step-parents were common enough in the old days, when e.g. mothers died in child-birth, modern step-children have step-parents as well as biological parents and often new sets of step-aunts, step-uncles and step-grandparents as well as half-siblings and step-siblings. Thus the children may have a larger number of adults who care for them, but they may also be exposed to a greater number of brief relationships, with an increased number of separations caused by adults moving in and out of the family. If this happens, and particularly if there are no long-term, loving substitutes outside the immediate family, the child may not get the stable, long-term relationships needed to establish and develop his/her own ability to form close emotional ties. A longer life-expectancy may mean that teenagers and young adults still have grandparents, and even great grandparents alive. These grandparents are not always very available: They may live far away, and grandmothers as well as grandfathers are busy with full-time jobs and short summer vacation.

Most children have no more than one sibling. This has led to a decrease in the child's possibilities for learning from the older ones as models and for being a model and a care-taker in relationship to younger children. The possibilities for social learning may be practically non-existent in sparsely populated areas, where neighbors with children of about the same age may be very far away. The lack of siblings increases the burden of parental responsibility. Rules are more readily accepted by a child who realizes that the rules apply to a group, not only to the individual. Self-control can be harder to learn and internalize, particularly when the learning possibilities are weakened within the close emotional network of a family. Internalization of morals and rules of behavior is greatly facilitated by the reciprocal understanding and warmth of the family. Wanting to live up to the ideals of the "beloved adults" and admired elder siblings is very motivating, particularly if parents are relatively consistent in their demands. Learning to take care of as well as care for the younger and weaker can be well learned in relation to younger siblings.

Even when parents increasingly listen to their offspring and are prepared to let children participate in family decisions, a "group" of one or two siblings, by sheer numbers, can never out-vote two adults. In addition the adults are bigger, stronger, and have more experience than the children, so their argumentation is often more convincing. Even larger groups of siblings can be overruled by the adults, which often is a good thing. The new element is that many parents are willing to let themselves be convinced by children, admit faults and defeat, and in a balanced situation of choice, might let the younger ones out-vote the older ones, - if indicated by the numbers.

As important is the fact that particularly combined with machinery and other time-saving devices in a family in the industrialized countries, there are far fewer means by which a child can learn to take on responsibility and learn to care for others as well as for himself. Even parents who are aware of this, struggle to find tasks appropriate for four-, five-, or ten-year-olds. The household tasks available and suitable for young children are no longer evident. To create a feeling of being necessary to the functioning of this group can be very difficult. Solberg & Vestby (1987) interviewing children have shown that Norwegian children actually work more than most adults think.[2] Ten to twelve-year-olds work on an average 5,5 hours per week, doing housework at home. In addition they spend more than two hours a week caring for other children, helping the elderly, running errands, shovelling snow etc. for other people. Most of this work is "invisible", in the sense that when it is done at home it is not appreciated as "real" work, much less paid for. And much of the time spent doing housework at home is keeping one's own room in order, hardly a task suited to giving the child a feeling of participation important to the well-being of the entire family.

The "moratorium" called adolescence some years ago (and in many cultures today) lasted 3-4 years. It is a phase of trying out roles, testing values and "trying on" opinions to find out which of them each person, individually and in groups, should adopt more permanently as adults, suited to the pattern of roles they envision for themselves in the adult world. Now this phase can last as long as preteen childhood does. The goal of becoming a true adult can become very unclear, because the time-perspective involved is so long and uncertain. In addition, it is hard to tell, when the world is changing so fast, what the future will involve.

Children go to school until they are 16 years old and are rarely obliged to earn their own living. They are financial responsibilities of their parents until the age of 18. So young people in Norway are more or less dependent up to the age of 18 or even much longer. Legal parental responsibility ends at 18, but morally, parental responsibility for each child may last many years longer. Decreasing possibilities for learning to take on responsibility and the shortage of jobs for young people make the transition from child to adult last longer and it is less clearly defined. This situation can breed interpersonal as well as intrapersonal conflict, particularly if the young adult, still occupying the "nursery", has his or her spouse, co-habitant or sweetheart move in too. With the rising cost of housing, this is not an uncommon situation, but one which neither parents nor homes are prepared for.

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[2] One reason it is hard to get correct information is that children themselves do not always consider these activities as "work" until they were asked to check their activities on a list.

Increasing traffic, population density, increasing numbers of two-parents working, and increasing distances between home and work, particularly when combined with a lack of consideration in urban and rural planning of the needs and behavior of children may combine in destroying not only play- and activity areas, but also learning opportunities, and reducing the time available for adults and children to spend together. In earlier times (and in other societies) children could acquire skills by watching and participating in adult employment. Children engaged in their own activities were aware of adult presence, and anticipated control even when adult control was unnecessary. In many modern housing-developments, outdoor play may be safe during the day, because all cars leave the neighborhood when parents go to work. However, when the cars go, the adults also disappear, taking with them learning-by-imitating opportunities and adult supervision, contacts, and control. In other areas children may not be allowed outside alone, and if they are, parents worry and playmates are hard to find. With older children parents worry not only about traffic hazards, but also about exposure to the drug scene. Parents of teenagers worry about abuse of tobacco and alcohol as well, and about the prevalence of teen-age sex. Thus there is no doubt that present-day parents have a total amount of worry and a feeling of helplessness about conditions that were unknown to previous generations.

Many parents are also uncertain about childrearing. They have learned not to be authoritarian, but not that they should not relinquish all authority. They find that the older generations' values and attitudes are under constant debate, and that they are being counteracted by the attitudes which children learn through soap-operas and violence films, without a supportive network close by.

There may be many lonesome children in Norway, children spending time alone at home, perhaps in the company of a television-set or a video-recorder, possibly choosing programs which provide the only excitement in a dull or boring existence.

Many of these worries and problems confronting children and their parents could be counteracted, if responsible authorities were more willing to do so. Informing all levels of the importance of giving these problems a higher priority and putting into force necessary new measures, was one of the main objectives of the Norwegian Ombudsman for Children.

5. What is an Ombudsman?

The word "ombudsman" is one of the very few Scandinavian words adopted into the English language. The term "ombudsperson" is used as synonymous with "ombudsman", occasionally also "ombud", although the latter is not recognized by English language specialists. "Commissioner" has also been used, e.g. in the Norwegian Ministry of Foreign Affairs translation of "Barneombud" (Ombudsman/person for Children). "Ombudsman" is used in this text, with no intended gender-specific connotations. The French translation is "Le Mediateur pour l'Enfance", the German is "Der Kinderbeauftragte", and the Spanish "el Defensor de la Infancia". Each of these approximate translations reflect different aspects of the Ombudsman role, as well as different socio-legal, political, and administrative traditions of the various languages and the countries from which they originate.

The first ombudsman was established in Sweden in 1809, to safeguard the citizens' general and individual rights against the misuse of government power. The institution was a reaction against growing centralist tendencies and the ensuing excessive powers for the government and the king. The traditional legal system in Sweden has always been characterized by a deeply rooted respect for the individual and all his rights. The notion of ombudsman was spread by professor Hurwitz, the first Danish ombudsman who was installed in 1954. The basic features of this institute could be summarized as follows (Verhellen 1990):

1. the institute is an instrument of the legislative power, but it functions totally independently. It is answerable in the most general way to the legislator only and has no connections whatsoever with the executive power.
2. It has virtually unlimited investigative power and access to any document related to a case.
3. the immediate cause for the ombudsman to deal with a matter is most frequently a complaint of an individual. However, he can express his opinion ex officio on all government actions.
4. the Swedish ombudsman is the only one who has the right to institute legal proceedings. Most ombudsmen do not have this coercive power, but they do exert strong influence on the basis of the authority vested in them.
5. dealing with an individual complaint (investigating supposed errors made in the past) is not aimed at discovering individual mistakes, but at ensuring they do not re-occur in future.
6. the ombudsman will always phrase his decisions with great care.

Traditionally "ombud" meant nearly the same as "ambassador" or "delegate", a messenger from for example the King to the people. In recent times the opposite is more nearly the case: it has become the word for a person or an office which deals with complaints from a defined, circumscribed group of people, speaks on behalf of that group and tries to improve conditions for individuals within the group as well as for the group in toto. Often in a confrontation-position to authorities, an Ombudsman serves as an independent, nonpartisan agent, spokesperson, arbitrator or referee, ensuring that the ministries and others fulfill legislative purpose and suggesting improvement measures. An Ombudsman has the power to investigate, criticize and publicize, but not to reverse administrative action or revoke administrative decisions. The effectiveness of an ombudsman, who has to be "a strong figure... able to secure the attention of the authorities by sheer force of personality" (Melton

1991) may depend on the person having "sufficient charisma, skill, and political stature and independence to carry out the office's mission" (op. cit.).

In Norway the term, used in a few other connections, is most commonly reserved for the national Ombudsmen for Public Administration (established in 1962[3]), Equal Status for Women (1979), Consumer Affairs (1972), and for Children. (A fifth is exclusively for the military services, and is therefore not "public").

The public Ombudsman offices were all established and funded by the Storting, the Ombudsman for Public Administration is also appointed by and answerable to the Storting. Their Ombudsmen responsibilities are described in the Acts for their respective Offices. Except by revoking or amending the Acts, the Storting cannot, however, instruct the Ombudsmen, who therefore have a rare independence in relation to administration - and the obligation to criticize even the Storting itself, if need be. The Ombudsman Offices are required to propose amendments of law, regulations, and procedures, seeking to improve the situation for the groups with which they are concerned. Except for the Ombudsman for Children, the Offices are responsible for specific provisions of Norwegian legislation. The Ombudsman Offices for Equal Status and for Consumer Affairs were established to defend - and handle complaints - in connection with actual legislation in those two areas. The Ombudsman for Children is, however, not responsible for any single law or sets of laws. There was, therefore, some discussion about whether or not the Ombudsman term was appropriate for the new Office when it was established. However, no better term was found, nor was there at any time any suggestion of restricting the Ombudsman for Children to any one law, for example, the Child Welfare Law, the School Act or the Parents and Children Act. There seemed to be a general understanding of the fact that nearly any part of the legislation and most sectors of society have something to do with children.

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[3] Os (1988?) writes: Unlike the conception process in Sweden, Finland and Denmark, where "the institution was a result of sweeping constitutional reforms, based in the Constitution itself", the Norwegian conception was "remarkable. A proposal to establish a control body for government administration, including even ministers as heads of ministries, was prepared and submitted by government administration itself in the form of an ordinary legislative act" and "accepted with few reservations and without hesitation or party tactics".

The Ombudsman for Children was established to "promote the interests of children vis a vis public and private authorities and to follow up the development of conditions under which children grow up" (Act of the Commissioner for Children §3). The only prohibitions are handling individual conflicts within the family, and issues which have been brought to court, until the court process has been completed. (See Act and instructions, Appendix One.) The Ombudsman for Children must therefore keep an eye on all areas of society, give warning of developments harmful for children, and propose changes to improve their conditions. He/she must be alert to the consequences and implications for children of all parts of the Norwegian legislation and regulations. Since the Office has no decision-making power and no right to rescind the decisions of other authorities, information, advocacy, and well-documented statements are its main instruments. The Office seeks to increase public knowledge and change the opinions and attitudes of others, in an effort to improve the situation of children.

This description fits in well with the six points outlined above, with the exception that the right of the Ombudsman for Children to institute legal proceedings is un-clear. The instructions (§4) states that "If an application concerns a situation which can be referred to the Public Prosecution Authority or a special supervisory body, after a more detailed investigation of the circumstances of the case the Commissioner may send the case to the relevant authority if the conditions pursuant to subsection 6 of 13b of the Public Administration Act obtain". While I was in office, we did send questions to the Public Prosecutor, but our interpretation of this paragraph of the instructions was that it was then up to the Public Prosecutor to instigate legal proceedings. Also, in general, class action litigation is not common in Norway, and the general rule is that only parties to a case can bring action. My interpretation of this clause seems to have been upheld, in that an attempt of my successor to take the child welfare boards to court was turned down, partly on the grounds that he was not a party in the case. (See also page 266).

CHAPTER FOUR

Establishment and Practical Framework. Some Ways of Working

Introduction

This chapter describes in some detail the process leading to the establishment of the Ombudsman for Children, how the Office started to work, the changes in the practical framework which occurred during the first eight years and how the Office worked in other ways than by handling applications and complaints. (A more detailed description of how applications, complaints and cases were handled follows in Chapter Five).

The first section describes the establishment process in an attempt to answer questions such as:
- How was the idea developed?
- What were the arguments for and against the Office?
- Were other alternatives for improving conditions for children considered?

The following section describes the limitations imposed by the budget and the number of positions and what was done to improve them.

The final section describes attempts which had in common a public relations and information motivation, the problems encountered and how these were sought overcome.

1. The establishment process for the Ombudsman for Children

1.1. Birth and development of the idea

The first suggestion for an Ombudsman for Children was published in the late 1960's, in a book by Anders Bratholm, professor of Law (Bratholm 1969). He stated that children, as a weak group, might need a public mediator to help them in conflicts with their parents. In 1974 a member (name unknown) of the program committee of the Labor Party's Women Organization, proposed the establishment an Ombudsman for children, inspired by the Swedish ombudsman for children, established by "Rädda Barnen" (The Save the Child Organization).[1] The Labor Party Women's Organization drafted a programme called "The Position of the Child in Modern Society", which was adopted by their annual assembly early in 1975. It described the Ombudsman Office as "one measure to defend the interests of children on their behalf by... (giving) ...information about the child's legal position, promoting children's interests and rights, strengthening the child's position at home and in institutions and serving as a public office when child abuse was suspected..." (Wiig 1981, my translation).

Later in 1975 the Ministry of Justice appointed a Parents and Children Act committee to propose new legislation to replace the 1956 separate laws on legitimate and illegitimate children. In addition this committee was to "analyze whether or not there were reasons to establish a special body to solve conflicts between children and parents and between children and institution staff members, or if such conflicts should be solved by strengthening existing bodies (the municipal child welfare committees or the municipal public guardians)... If so, thought should be given to whether or not such a public body should also be responsible for promoting children's rights in a more general way..." (op. cit. my translation). The committee's deliberations, published in 1977, contained an unanimous proposal for establishing an Ombudsman for Children: The Ombudsman for Children should be public and national, with no formal authority, to function as a lobbyist for children. With regard to private conflicts, the Ombudsman should have no other responsibility than that of referring the parties to existing counseling agencies. To give the Ombudsman authority in this type of case would entail establishing local offices or branches, in a field where such local authorities already existed.

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[1] This office is still part of the "Rädda Barnen" organization in Sweden, but the Ombudsmen titles were changed to research coordinators in 1989. Being non-governmental and independent, it decides which issues are most important to work with, e.g. it periodically functions as a crisis-telephone for children as well as a lobbyist. If an Ombudsman for Children like the Norwegian one is established, it will continue its own service.

The proposal regarding the Ombudsman was not given serious consideration in a Parliamentary Report on "Conditions for Children" in 1978. The Ministry of Consumer Affairs and Government Administration was drafting a proposal for an Act[2], which would be sent to a number of organizations for their opinions before a bill might be proposed to the Storting.[3]

For The International Year of the Child (1979) a special IYC Committee was established, with representatives of a large number of ministries and organizations. In 1979 the Ministry of Consumer Affairs and Government Administration also appointed an interministerial committee with representatives of six ministries, to prepare a survey on important suggestions concerning children presented in official reports and proposals during the past years. The group was also to evaluate the proposal for an Ombudsman for Children, in relation to existing institutions and their responsibilities and work for children. The committee agreed that the interests of children cross all administrative and other boundaries, and that it was important to strengthen the existing institutions and improve cooperation across boundaries. The group agreed that there was a need for an autonomous, national body to promote the interests of children, perhaps influenced by the Committee for the International Year of the Child, which had supported the idea. However, the interministerial group was divided on the question of how such an autonomous body should be organized and which responsibilities it should have. The members from the Ministries of Justice, Consumer Affairs and Government Administration, and Environment supported the proposal. These Ministries have "children as a group" as a part of their respective areas of responsibility. The members from the Ministries of Health and Social Affairs, of Education, and of Local Government and Labour proposed an advisory Council for Children in addition to strengthening existing institutions like the Ombudsman for Public Administration and the "State Child Welfare Council". During 24 years of existence this Council had held 2 meetings. It was supposed to comment upon issues presented to it by the Ministry of Health and Social Affairs, but "the Ministry hardly ever took the opportunity of using this assistance" (Skard 1980, my translation). These Ministries have in common a responsibility for the individual child, as pupil, client or society-member.

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[2] Actually, in spite of the interest of the Ministries (Justice and Consumer Affairs and Government Administration) neither took the time to draft the Ombudsman for Children Act themselves. This was consequently done by two of Prof. Bratholm's students, a very uncommon procedure in Norwegian legal history.

[3] Legislative amendments may be proposed by the Storting, the Council of State, a ministry or a person/organization outside the administration. The ministry, if so directed by the Council of State, drafts a proposal with the reasons for it, which must be approved by the Council of State. Either before or after this approval, the ministry sends the draft proposal on a "hearing". A "hearing" in the Norwegian sense is different from what it might be in many other countries. Before legislative amendments or changes of rules and regulations are proposed to the Storting, the ministry responsible sends the proposal to all other ministries which might be affected. When the proposal concerns local government/interests, it is also sent to all municipalities and/or counties. In addition the proposal might be sent to any number of organizations which might be concerned with the issue, for their opinions. Whether or not each chooses to give an opinion may depend on the issue. But the expectation is that the lead ministry will consider all opinions seriously. Relevant passages may be quoted in the final proposal and all the instances are at least listed. In this way Storting committees and members are given information about the opinions, disagreements and consensus of hearing instances. "Hearings" are therefore not for the benefit of voters, nor are they public in terms of mass-media.

The committee's views, while not brought to a vote, were equally divided between two equal sub-groups. The whole proposal was therefore in the balance. Both sub-groups found support for their views amongst the opinions presented by other organizations and ministerial departments. Typically the "Women's rights"-organizations supported the proposal, while organizations like the "Norwegian Housewives Association" and the "Farmer's Wives

Organization", afraid that the Ombudsman might weaken the position of parents, opposed the idea.

The Council of State decided to carry on, despite the divided opinions. The Bill on "The Ombudsman for Children" was proposed officially by the Minister of Consumer Affairs and Government Administration Aug. 15, 1980 and sent via the Counsel of State to the Storting to its Standing Committee on Social Affairs.

1.2. The process in the Storting (Parliament)

The Bill presented to the Storting was very similar to the proposal from the "Parents and Children Act" committee of 1977, with one important exception: The proposal from 1977 regarding Ombudsman responsibility in relation to conflicts within the family had been omitted. There was a general consensus that the Ombudsman should not interfere with internal family conflicts, but the views on the relationship between the Ombudsman and the family were divided. Some feared that the Ombudsman would threaten parental authority, that responsibility for children would thus be transferred from the parents to society in general. Leaving out the "private arena", the majority felt that the Ombudsman could be a support for parents, helping to develop a society better for parents as well as for children. The "private arena", while present in the preparatory work and prominent in the discussions, had now been omitted and the proposed responsibilities of the Ombudsman were confined to the public sectors only, although still including "private institutions for children". (The Act was supplemented with instructions, which clearly state that "individual conflicts between parents and children or between parents" shall be turned down by the Office). Also, compared with the proposal from the Labor Party Women's Organization, the word "rights" had been deleted, so that the Ombudsman was supposed to work for "the interests of children", but not specifically for the *rights* of children. Rights were mentioned in e.g. the Storting deliberations, but no suggestion was made to reinsert the term. (This, in 1980-81, was before the work of drafting the U.N. Convention on the Rights of the Child had started in earnest).

The Storting in 1977-81 had 155 members (see page 72) with 78 members representing Labour and the Socialist Left Party. The Standing Committee on Social Affairs, composed with the same balance between the parties, was divided in its views on the Bill. The minority was reluctant to expand bureaucracy, preferred to strengthen existing institutions and to revive the "State Child Welfare Council", in addition to feeling that responsibility for children should not be transferred from the parents to society in general. The majority felt that children needed a spokesperson in relation to all decision-making bodies, someone to fight for their interests and promote their rights. They also felt that the Ombudsman could be a support for parents. But while stressing that good parents are the best supports children can have, parents alone cannot put on the pressure necessary to secure changes in the society in which they live. (In 1980 one of every three families had children under the age of 16 years. Parents with young children thus constituted a minority amongst voting adults).

The debate in the Storting went along the same party lines and presented the same arguments. The Act was adopted Feb. 26, 1981, with a five-vote majority, and sanctioned by the King in March.

The discussions in the Standing Committee on Social Affairs, the public debate in the press and the votes in the Storting, make it clear that Norway would not have established an Ombudsman for Children (at least not at that time) with a different political majority. However, in other countries, the arguments against the Ombudsman voiced by the more conservative group in Norway are now being used by the more radical groups opposing an Ombudsman, perhaps for other reasons as well. The reasons for opposition seem to be more or less independent of political "color", since they come up in different patterns in different countries. To summarize the arguments:

- The Ombudsman could be a threat to parental authority.
- The Ombudsman could become an excuse for other groups and bodies responsible for children, to diminish or relinquish their responsibilities.
- The funds allocated should rather be used to strengthen other existing efforts or services for children.

1.3. Why an Ombudsman and not something else, in Norway?

Norway is a small country, with a small population. That in itself may be one reason why even a modest national office (with four staff positions) with such wide responsibilities was considered possible. Also, Norwegian society has long traditions in democracy and in using legislation as a tool for changing attitudes towards children and improving conditions for children. Legislative amendments also reflect parents' and other adults' changing knowledge and thinking about children. In addition, and since children are clearly a minority group in Norway, the Ombudsman tradition and the establishment and acceptance of other Ombudsman Offices to protect and promote the interests of other weak groups, cleared the way for an Ombudsman also for Children. (Whether a small population, a democratic political system and faith in legislation are necessary conditions for an Office of this kind is discussed in Chapter Eight).

The public, administrative and political debate preceding the adoption of the Ombudsman for Children Act indicated that there was a general acceptance of the need to improve conditions for children. Children cannot vote, they have no influence on the political bodies which make the important decisions determining their conditions, they cannot use mass media or organizations to sway public opinion. Therefore there was also acceptance of the need for a spokesman on their behalf.

Other alternatives were brought into the discussion of how to strengthen the interests of children. A State Council (or revival of the existing Council) was proposed, but was not perceived as having the necessary independence, being commissioned by and answerable to one specific ministry. Local "ombudsmen" were indirectly suggested, in connection with how to organize mediator-service between parents and children. Even when that possible area of responsibility was dropped, the question of reaching children locally through branch-offices did not gain significant support, partly because the expenses would be so much higher. There was no suggestion of such a service carried out by volunteer groups, because there is little tradition for volunteer work of this kind. Non-governmental organizations have a tradition administrating child care institutions and health care services and have lately established local "contact-telephones" for children. But services established and run by organizations have often been taken over by the public services, not vice versa.

Creating some kind of cooperative effort and responsibility on the part of non-governmental organizations, which has been proposed in other countries, was *not* part of the discussion about establishing an Ombudsman, probably because there were (and are) few organizations with the interests of children as their main objective. This may be important for the fact that none of the organizations themselves suggested such a solution. Another reason might be that the organizations preferred a more independent position, free to join in the fight on any issue, but not obliged to do so on any specific set of issues.

2. The initial phase

The Act establishing the Ombudsman for Children gave the Office a wide mandate, but no decisive power. To promote the interests of children in society and in relation to public and private authorities, with a responsibility for keeping an eye on the development of conditions for children, was a sweeping responsibility. More specifically the Ombudsman was legally responsible to act as a hearing instance (see footnote 3, page 109), and so could not be left out on any issue concerning children. As the Ombudsman could also act on its own initiative, requests for proposals not originally submitted to the Office could not be denied. Furthermore the Ombudsman should ensure that legislation relating to the protection of children's interests was observed, and propose measures to strengthen these interests or to solve or prevent conflicts between children and society. Finally the Ombudsman should ensure that sufficient information concerning children's rights and measures required for children was given to the public and private sectors. There was no indication of how much or what kinds of information are "sufficient", nor any indication of how the Ombudsman was to know of all information given by other sources. But this part of the Act at least gave the Office a right to spread its own opinions and statements without restrictions.

The term "children" involved all persons up to the age of majority (18 years of age). Anyone could apply to the Ombudsman, and all applications must be put into writing by the Office, if given orally. If an application concerned a specific child and did not come from the child itself, the Ombudsman must have the permission of the relevant child to handle the case. The instructions say that "when a child's age so indicates, the permission of the guardian shall also be obtained", but there is no indication of when age so indicates. This was therefore left to the discretion of the Ombudsman, who could deal with the case without permission "if general considerations so indicated". The most important restrictions for the Ombudsman was a legal obligation to reject applications concerning concrete, individual conflicts between a child and its guardians and between guardians (or parents) concerning conflicts within the family. Also the Ombudsman is not free to handle cases already being handled by the courts, but might criticize the grounds for court rulings, once the courts had completed their case. (To be sure that the courts actually had completed the case, any appeal to a higher level court must apparently also be completed - or the deadline for such appeal must have run out). The Ombudsman should refer to other Ombudsman Offices when the complaint mainly concerned matters

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under their respective jurisdictions.

2.1. The first ombudsman

The preparatory documents for the Office did not contain clear guidelines on the types of qualifications necessary for the ombudsman, the only problem discussed being whether or not he or she must have a legal background. The other ombudsmen, except the one for Equal Status for Women, were (and had always been) lawyers. With the wide mandate given, and because a lawyer might narrowly concentrate on children in relation to legislation, the conclusion was, however, that other professions might be as well or better equipped to promote the interests of children in relation to all areas of society.

The ombudsman position and the posts for other staff members were advertised in the ordinary way for civil servants, in all major newspapers. To secure a wide range of candidates, however, a number of people (including me) were asked to consider application. The 19 applicants had widely different professions and experiences. My own background was as a preschool teacher and clinical psychologist, with experience as a local level social-democratic politician. Differentiated experience with a wide variety of children combined with political experience was probably a good combination, one that I found very useful during my terms in Office. The ministry administration[4] put a lawyer at the top of their proposal, but the Council of State appointed me ombudsman in late

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[4] The Act states that "The King shall appoint a Commissioner for Children for a period of four years". Applications are studied by the ministry department concerned, and a proposal is submitted to the political leadership of the ministry. The minister may agree or disagree, may send it back for further consideration, and may present this (or his/her own) proposal to the Council of State. If the Council of State disagrees with minister, the proposal may be sent back for reconsideration. When the Council supports the proposal, it is formally accepted by the Council when the King is present. Only twice in this century has an appointment been made against the opinion of the minister concerned.

August 1981.

There were, of course, speculations about this being an appointment made on political grounds, but while the appointment was made by a political body (the Council of State), there is no doubt in my mind that the decision was based on a total evaluation of the candidates, in which professional status counted heavily. Also, due to the political opposition against the establishment of the Office, there were few (in any) applicants from the center and rightwing parties.

After the Act was adopted, while the instructions were formulated, and prior to appointment, the decision to locate the Office in Oslo was made, in spite of the fact that working mainly by telephone and mail, the Office could have been located "anywhere". The main reason was that in Oslo the Office could have close contacts with the ministries and the central political administration.

2.2. The other staff-members

The number of staff members is proposed by the ministry, and decided by the Storting in connection with the annual budget, which is one chapter in the budget for the Ministry of Consumer Affairs and Government Administration. The original ministry proposal was for six people, the number to be "rapidly expanded", but the final proposal was for four, fewer than in the other Ombudsman Offices, perhaps in order to "sugar the pill" in face of the divided opinions about establishing the Office.

The wide scope of the Office evidently necessitated a constellation of different professions in the staff. The professional background of the ombudsman therefore would determine the choice of other staff members, one of which must have a legal background. The second-in-command (Head of Division) in general is proposed by the Ombudsman and appointed by the Ministry (the first time the ombudsman and Ministry staff interviewed together, but the

Ministry made the proposal, for the person to be appointed and for a person to serve in an interim period until the actual appointee could start). The "second-in-command must be qualified to act as deputy ombudsman" (Instructions §9). A female sociologist was appointed, with a degree in engineering preceding her sociology degree. To serve temporarily a woman who had been employed in the Ombudsoffice for Equal Status for Women in its initial phase was engaged. This turned out to be a wise choice, since her experience helped to establish office routines and informal guidelines which have turned out to need only slight modifications in the ensuing years. As the third staff member (appointed by the Ombudsman) a male jurist was appointed, professionally the best applicant. To balance genders as well as professions, it would have even been acceptable (according to appointment rules of the Equal Status Act) to appoint a male if he had been slightly less qualified than a female. But this was not necessary. The fourth person was the secretary (appointed by the Ombudsman), who would also be responsible for the switchboard, files, and all office technicalities.

2.3. The advisory panel

According to the Act, "The King shall appoint a Panel which shall act as an advisory body to the Commissioner for Children". And the instructions specify further: "The Panel is appointed by the Council of State[5] for a period of four years. It consists of six members with personal proxies as well as the Commissioner[6] himself as the head of the Panel".

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[5] The apparent discrepancy between the Act and the instructions is only a difference in formality. Legislation uses "the King", but in practical terms this means "the Council of State (with the King present)".

[6] When quoting from the Act or instructions, the term "Commissioner" is used, as it is in the Ministry of Foreign Affairs' translation of these documents.

The selection of members for the first Advisory Panel was of particular importance. This panel would not only advise the new Ombudsman, but also lend prestige to the Office. When asked by the ministry, I did not want to suggest any one person as a member, but stressed a composition of the group to represent various political parties, age groups (including grandparents), regions of the country, ethnic groups, professions, and both sexes. The question of having children on the panel was difficult. There is no process for selecting young people really representative of the child population. I felt that all the children who used the office would, in a sense, be advisors, since they would be telling me which problems they considered important. At that time I was confident that at least half of the complaints would be from children, which turned out to be far too optimistic. (See Chapter Five, page 155-156, on children's requests).

The panel was appointed by the new Council of State in Nov. 1981.

The members were:

Christian Erlandsen (Psychiatrist, member of Parliament for the Conservative Party, reelected in 1981)*.

Tone Bratteli (Journalist, under-secretary of the Ministry of Consumer Affairs and Government Administration until Sept. 1981).

Njål Petter Svensson (Child Welfare worker, author).

Kjell Ballari (Teacher, member of the ethnic minority group "Same").

Magne Raundalen (Psychologist).

Lucy Smith (professor of law, particularly concerned with legislation concerning children).

Proxies:

Bergfrid Fjose (Housewife, member of the Storting for the Christian Democratic Party until Sept. 1981)*.

Aud Iversen (Housewife, local politician for the Liberal Party).

Jarle Meløy (School Administrator, local politician for Labour)*.

Kari Bjerke Anderson (Architect, local politician for the Liberals).

Anders Bratholm (professor of law, the "father" of the Ombudsman idea, see page 107)*.

* "Grandparent generation".

While the first Panel did give the new Office moral support, the flip side of the coin was that the members (including proxies) were prominent people, carrying much responsibility in their professions and in other society commitments. Thus, even though the staff was free to ask for advice or help when needed, the members rarely were free to comply, except when advice could be given quickly, e.g. by telephone. The exception was an investigation carried out in two counties by a child psychologist (Magne Raundalen) and a pediatrician (Dag Nilsson, who was appointed member of the Advisory Panel to replace Aud Iversen in 1985) on the effects experienced by children with long bus-rides to school (See page 228-229).

3. The Office and how it worked

3.1. Some ideological comments

My professional background and experience, with "ordinary" children as well as with children with a wide variety of problems, was naturally the foundation for the way I wanted the Ombudsman to function. Experience with children had taught me to be very careful of underestimating what a child can do, if the expectations and instructions are tailored to the developmental level of the child. My faith in the capacities for coping in parents as well as in children had been constantly reaffirmed, particularly with the parents of handicapped children. So was the fact that children and parents most often form such a close unit that what is effecting one part of the dynamic system of the family will necessarily have repercussions on the others.

On the first page of their book "Before the Best Interests of the Child" Goldstein, Freud and Solnit (1979) say:
"So long as the child is part of a viable family, his own interests are merged with those of the other members. Only after the family fails in its function should the child's interests become a matter for state intrusion". It became increasingly obvious to me that this statement is only true as long as the adult family members, if they have a choice, and when the needs of the child are at stake, are

willing to give the child's needs priority over their own. Most parents are happy to do this, provided they know the consequences. But some are not willing or able to do this. Some need information or other interventions, e.g. counseling, to avoid neglect or suffering for the child. Before - and in order to prevent - family failure, the child's interest should in my view be a matter for public commitment, particularly for high-risk families, but also in order to ease the burdens of "ordinary" parents. The goals and aims of public responsibility should be to maintain and protect those aspects of society which are valuable for children, and to protect the growing generation from the negative consequences of society development and change. Also, public intervention and planning are often necessary to compensate lost values which are beyond the means of individual families to repair or provide substitutes for. To establish play-groups, nursery schools or kindergartens as compensation for the lack of siblings or playmates or to provide safe play opportunities must often be the responsibility of organizations, community groups or municipal or state authorities.

With this conviction of the importance of children, and of creating good conditions for families, it was difficult for me to believe that anyone would deny children what they need, if there is sufficient knowledge of the needs of children and families and sufficient understanding of how conditions will affect the growing generation. However, my political experience had shown me that many politicians do not have enough knowledge about children, even if they have had children themselves, or have grandchildren. Their own childhoods are far away, particularly because in our society conditions change so quickly that memories of childhood are of limited help in the efforts of today. Children of our generation have lost values which the older generation took and often still takes for granted, for example safe places for play, peers to play with, mothers working at home. Children are exposed to influences and situations which people over 50 years of age could not be exposed to when they were less than ten years old, for example, television.

With a teacher/psychologist, a sociologist and a jurist, the composition of the staff secured experience in looking at the individual child in the family context, the child and family in the societal context and the child and family as legal subjects.

3.2. Changes in the practical framework

In addition to the Act and instructions, the practical framework around an office clearly sets limits to and influences its functions. With a mandate as wide as that of the Ombudsman it can be hard to tell how many staff-members are actually needed in order to do the work expected. It is also difficult to say, regardless of the size of the staff, whether it is in fact fulfilling its obligations. Needs tend to show up increasingly as a service office develops, particularly as faith is built up that the office can be of help. These are well-known experiences to many working in similar kinds of setting.

3.2.1. THE BUDGET

The staff remained unchanged in size during the first eight years. But the budgetary situation became increasingly difficult, particularly after the first three years.

Table 8. Budget developments 1982-1990.

	N.cr.	U.S.$		inflation	% increase
1982	1.113.280	172.000	(11)	12,9	-
1983	1.272.000	195.600	(18)	10,7	14,0
1984	1.360.000	209.000	(20)	12,6	6,8
1985	1.434.000	220.600	(21)	8,3	5,4
1986	1.482.000	228.000	(21)	11,0	3,3
1987	1.623.000	249.692	(22)	8,5	9,5
1988	1.745.000	268.461	(24)	5,0	7,5
1989	2.145.000	330.000	(30)	4,5	23,0
1990	3.200.000	490.000	(45)		50,0

Numbers in () indicate U.S. cents per child per year.

The average inflation in 1981 to 1986 was 11,5%. In 1982-83 the budget was increased in line with inflation. In 1984 to 1986 budget increases were 3 to 7%. Increase was 9,5% from 1986 to 1987, but the addition was mainly caused by the fact that the Office was moved to a more expensive location, with the costs involved, as reflected in the lower increase the following year (7,5%).

In addition the budget was gradually expected to cover expenses previously covered by other offices, for example expenses for distribution of all publications. General budget decisions on a central level hit the Office with particular strength, since it was so small. In 1986 and 1987 all public offices were required to reduce salary expenses by 10%. In larger offices, with for example 30 staff members, very often a position would be vacant or an employee would have unpaid leave of absence. Three positions, differing as to which they were from time to time, would fill the requirement. In the Ombudsman Office, with four staff members, a 10% reduction was impossible. Salary increases were to be covered with no extra increase in the budget, if need be at the expense of other operations, in the case of the Ombudsman plans for up-dating printed material and for printing annual reports. Applications for extra funding of "Facts about Children in Norway" did, however, get the necessary support, in 1987 from the Ministry of Consumer Affairs and Government Administration, for an up-dated edition in 1988/89 from the Ministry of Health and Social Affairs. (Both ministries acknowledged the usefulness of the publication, indicating that in future this should be a ministry, not an Ombudsman publication).

In early 1988 our problems were explained to the Minister and Under Secretary, since it seemed obvious that the ministry (of Consumer Affairs and Government Administration), particularly the department that handled the Ombudsman budget proposals, was not ready to actively support the needs of the Office. This was not due to ill-will, but to the fact that this department - like all others - felt the effects of the tighter economy in their own daily lives, but not the effects in other offices. I was convinced that the Council of State (the 2nd Harlem Brundtland administration which had come into office in 1986), having established the Ombudsman Office in 1981, should or would feel a stronger obligation to support it than the previous Council of State. Our first meeting did not, however, lead to any positive results. But in May 1988, the Minister in question left her post, and her successor proposed a 20% increase for the fiscal year of 1989. The Storting increased the budget by 23% in November 1988[7] and again, one year later, by 50% for 1990.

The lean years had taught a lesson which might be particularly important in countries less well off than Norway: getting results in working for children need not necessarily involve excessive cost. Even on a relatively small budget, a lot can be done, particularly with a dedicated staff.

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[7] Melton (1991, in press) describes the situation before 1988 as follows: "Whatever the appearance, one could reasonably argue that the Storting has chosen to support a weak barneombud".

3.2.2. THE STAFF

The number of staff members remained constant from 1981 to 1989. The budget in 1983, 1984 and 1985 allowed for short-term engagements of additional legal or other help, partly because none of the permanent staff were ever absent because of illness, which would have caused a need for substitutes.

The first Head of Division ("second-in-command") left the office to take up a research position in 1985. With the experience the office had at the time, the first priority for replacement was an economist. This did not reflect any degree of dissatisfaction with a sociologist, but the fact that cost-benefit analyses of child-directed programmes and efforts seemed to be of extreme importance. To convince politicians of the advantages of investing in childhood, it seemed necessary to be able to provide hard data, preferably in "dollars and cents", to demonstrate - not only the cost of such programs - but - even more important - the longterm cost involved in not providing for children. The economist who was offered the job, however declined, so the replacement was again a sociologist.[8] The third alternative considered was a public relations expert. At that time, the press coverage was increasing and I still hoped that the national radio- and television corporation would gradually agree to use more time on children's issues and on the cases of the Office. Besides, with the strong need felt for child-professional backgrounds for our statements, I was reluctant to use one quarter of our entire staff for public relations.

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[8] The budget no longer permitted the use of consultants, so instead of trying to provide cost-benefit-analyses ourselves, the office continued to try to convince research institutions of this need. The need was acknowledged, but the difficulty of the task, including longitudinal studies, has caused all of them to tackle other problems.

3.3. Reaching out

With the obligations taken on, it was obvious that the Office, to be able to function at all, must become well-known to individuals as well as to organizations and administration. The mass media would obviously be important, but not necessarily the only channel for information to children and adults. The discussion about establishing the Ombudsman for Children had been a topic in the mass media, particularly the press. The formal appointment of the first ombudsman also received wide attention, in national and international press coverage.

3.3.1. THE PRESS

Following the initial interest created by the new office, there was a comparative lull in press coverage, in part due to a decision made by the Ombudsman not to present any issue until the Office was certain that the first issue would be a significant one. This turned out to be the issue of how video violence and video pornography might effect children, started by two telephone-calls in Aug. 1981, asking whether forcing children to watch such films might be termed "abuse". This item hit the press, with "war-size" headlines, in December 1981, when many people were considering buying a video for Christmas. This was before video became common, but started the whole public discussion about measures to protect children when necessary, and alerting parents to the first possible hazards of letting their children watch video without supervision. (See page 285).

In the following years the press, particularly the newspapers, gradually paid more attention to the ideas and issues of the Ombudsman office. When the Ombudsman gave an opinion to a municipal authority, a copy was sent to the local press. Local political leaders had no obligation to present such statements to (for example) the Municipal Council. To ensure that the information really reached the politicians as well as the general public, the statements were therefore sent to the press, usually a day or two after mailing them to, for example, the mayor of the municipality involved. This also made it more difficult for the leading politicians to withhold the statements.

More general press-statements were issued on important hearing-statements, sometimes through the Ministry Press Relations Office.[9] The Ombudsman Office also gradually developed its own routines and contacts with regular reporters. Recording the time spent on the press at various periods indicated that the ombudsman spent an average of half an hour per day speaking to reporters, but this of course varied, according to the issues interesting to the press, and also seasonally. Summer, a quiet period on many fronts, was the season when reporters (having tried everything else first?) would have an increasing interest in matters concerning children.

One restriction in press-relations was the lack of public relations "know-how" in the staff, which was complicated also by ethics. While the press often wanted names, "sob stories" or sensations, the Ombudsman, compelled to protect children as sources, would not comply. Also, I did not want to give "headline" statements, which tend to present an over-simplified picture of a complex story. Particularly in the starting period, it was important to establish the Ombudsman as a serious, professionally sound institution; it would go against the very future of the Office to give in to such demands. The result was, of course, that a number of less controversial issues, not considered "newsworthy", did not appear in the press.

International interest in the Office was reflected in the press through interviews and articles, from 1987 (e.g. Freeman 1987, Zagoria 1988).

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[9] The Office was in principle autonomous in relation to all the ministries. However, it was understood that the Ombudsman could use the services of the Ministry of Consumer Affairs and Government Administration, but could also use other services. The Ministry had no obligation to help, but did so when able.

3.3.2. TELEVISION AND RADIO

In 1981 the Norwegian Radio and Television Corporation (NRK) in addition its news broadcasts, introduced the ombudsman in programmes both for older and younger children. In a national, televised fund-raising action for children, the ombudsman was interviewed by a beloved Norwegian puppet.

During the following years repeated attempts were made to have the Ombudsman "re-introduced" in television, but to no avail. The department for children and youth programmes did express understanding, but did not find a "story" in the proposals. Also, their budget is more limited in relation to the time they must fill than are other programme departments (at that time 10% of the NRK budget to cover 12% of the air time). In this situation it was a disadvantage to have a television monopoly, because there were no other stations to turn to. Foreign television companies, interested in producing programmes on the Ombudsman for their own use, would hardly be interested in making such programmes in Norwegian, for Norwegian children. Without advertisements, there was no way to buy time for TV-spots. The Ombudsman office did not have the public relations experience, the budget nor the time needed to produce TV-spots on its own, in order to offer "ready-made" products. So the majority of TV-appearances were incidental, on the news, when the Ombudsman had made a statement worth broadcasting.[10]

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[10] The necessity in this field was clearly demonstrated in 1989, when a new ombudsman who is well-known as a TV-personality, having produced a number of freelance TV-productions, had the facilities and the "know-how" and very quickly was given a time-slot every 2 weeks for his own nationally televised "Ombudsman for Children" programme.

3.3.3. PUBLICATIONS

3.3.3.1. *Booklets*

It was realized from the very beginning that presentations through the mass media, if not repeated, would at best have a short-term effect on the young population. While adults are reminded of the existence of the office by hearing of opinions stated or referred to in the press, possibly with a photograph, particularly young children who do not read newspapers in the same way, needed more suitable information. A booklet (made in cartoon-style) was prepared, with language consultation by a nine-year-old, for children under the age of eight; a pamphlet was also prepared for the older age-groups. These were circulated, as appropriate, to all nursery-schools and kindergartens, to schools, libraries, social welfare offices, municipal and county authorities, at regular intervals as long as they were up-to-date. A sticker was offered so popular that children would call to ask if they could "join the club" to get them.

3.3.3.2. *"Rights and responsibilities of children"*

is a one-page pamphlet, suggested by a 14-year-old, who wrote:

> *"I do not have any real problems right now, but could you send me a list of the rights of children at different ages, so I have it when I need it".*

The list of age-limits was compiled and widely distributed, and the demands for more swamped the office. (Translation, see Appendix Four).

3.3.3.3. *Annual reports*

The Ombudsman was according to the instructions obliged to present an annual report to the Ministry of Consumer Affairs and Government Administration, available to the public in general.

These annual reports were the only publications the budget MUST allow for. 1981 was such a brief "year" that only a very small booklet was prepared. In the following years the reports (after 1982) included statistical material as well as descriptions of the work being done. Since this report was the only annual and regular publication, the reports for 1983-1986 also contained a chapter on issues of general importance. *"Good conditions for children on various developmental stages"* (1983) summarized the basic emotional, social, and cognitive needs of children as they grow and pointed to the practical requirements for meeting these needs, for example, the need for stable longterm relationships with adults, the need for space to play, the need for peers, for stimulation and learning possibilities suited to age. This summary, as a conclusion, also pointed to the lack of public services to provide for needs that parents cannot meet alone, with suggestions on how to improve the situation, including the first proposal for umbrella legislation to set a minimum standard for requirements for children.

"Improving conditions for children, - why is it so difficult?" (1984) discussed the child in Norwegian legislation and the problems of Norwegian children, with the changes in society which have not yet led to changes in the services for children and their families. Since Norway had such a long tradition in using legislation to promote changes in attitudes as well as in society, the Ombudsman argued that the rights of children must be strengthened and the need to consider the interests of children made explicit in rules and regulations. Also, responsibility for children in the administration should be clarified and strengthened. Finally the Ombudsman pointed out that expenses for programmes for children can be very good investments, financially as well as for the children themselves.

"Private and public responsibility for children, - how is the distribution and does it work?" (1985) discussed parental and public responsibility for children, pointing out how the changes in society must lead to a re-distribution of responsibility, and to ways and means of helping parents function better as parents as well as

improving conditions for children in general. In this report the Ombudsman again proposed umbrella legislation, discussing other alternative ways of formulating such a "Conditions for Children" Code.

The annual report might also contain reports of larger meetings held by the Ombudsman. *"Planning for children in housing areas"* (1986) brought together representatives of ministries, planning offices, non-governmental organizations, and experts from Sweden and Norway to discuss *"Children and Cars in Housing Areas"*, experiences and views on the combination of traffic and children, including research on the experiences of parents (mothers) in attempts to safeguard their children.

In 1986 the Ombudsman had also organized a public hearing on "*Vulnerable children, what has been done and what should be done*?", the report presented in the annual report. The hearing was public, focussing mainly on children under 12 years of age, and was opened by the President of the Storting. Professionals from various fields reported on conditions in their field, under headings such as "Children need parents", "Children need physical safety in and outside their homes", "Children need adult time", "Children need spokespersons" and "Do we need better legislation for children?".

The reports of 1987 and 1988 did not contain such material. Due to the cost they had to be as brief as possible. As in previous years the report was sent to all members of the Storting, to ministries, municipalities, counties, schools, libraries, etc.

Annual reports can make heavy reading, particularly for the group most wanted as readers. A special abridged version for children, some 8-10 pages, was prepared every year and sent to schools, nursery schools etc.

3.3.3.4. *"Facts about Children in Norway"*

Was prepared and published in 1987 after the hearing on vulnerable children, for which a preliminary survey of available statistics was prepared. Statistics on children are often not good enough, questions which could have been asked are often left out or when asked directed to adults. But it was also evident that existing statistics were not readily available. Different institutions prepared whatever they might need or be asked for, so it was difficult to know where to get such information. The first edition was therefore simply a compilation of available statistical data, with some of the Ombudsman's comments. The demand was overwhelming, and from many sides, particularly from local authorities. The first printing, planned to last for two or three years, was "sold out" in the course of nine months. (Being produced by a state office, Ombudsman publications are free. There is no place for income in the financial reports). A revised, expanded edition was published in 1988, funded by the Ministry of Health and Social Affairs. An English translation appeared in 1990.

3.3.4. TELEPHONE

In order to be more readily available to children all over the country, attempts were made to get a free telephone-line and to have the telephone number included in every directory in the country. These efforts did not succeed in 1981-1982, prohibitive expense and red tape being given as the reasons. In particular the telephone company was afraid of the consequences, if others would want to follow the example set by the Office. However, a special weekly telephone period for children was widely advertised, so that children at least would not have to compete with adults in reaching the ombudsman. The most important effect of this measure was, however, the emphasis thus communicated on the importance of contacts with the younger generation. In practical terms, the indicated hours soon became a quiet working period, because adults did not call at that time - but neither did the children. They called whenever the need arose, even at midnight, regardless of the time. Children calling from outside the Oslo area would leave their own number so we could call them back at our expense.

In 1985 a new attempt was made to bring at least the office number into all directories. Children will look in their own directory, not the Oslo one, for the Ombudsman number. The response was surprising: Of course! and at no cost. Since 1986, as new directories appear (not all are reprinted every year) they all have the number of the Ombudsman listed on one of the first pages, in the list of "Important numbers" (such as the local Children's Contact Telephone, the taxi cabs, the weather forecast, and the snow conditions for skiing). The free line was established in 1990.

3.3.5. LECTURES, PUBLIC APPEARANCES

Requests for lectures, participation in seminars, giving talks at Universities etc. were often directed to me personally. If I declined, suggestions of other possible speakers were given, including other members of the staff. The latter was rarely accepted; people wanted the ombudsman, and would rather wait than accept a substitute, even when other staff members were better qualified to speak on the subject in question. ("The Zoo effect": the curiosity of an audience to see a rare new animal). With so many requests, guidelines became important. The "first come, first served" principle would not suffice. The Office was a national office, located in Oslo. A relatively high number of the complaints and requests came from Oslo and the surrounding areas, even taking into consideration the population density of this area compared to other parts of the country.

Table 9. Geographical distribution of complaints (percentages).

	1983	1984	1985	1986	1987	1988	1989	Pop.
Oslo	33,9	32,6	33,0	33,1	27,9	31,6	34,2	10,8
Akershus	17,6	15,3	14,0	13,0	13,7	11,6	12,0	9,5
Other SE	17,0	19,8	20,0	17,8	18,0	19,4	17,8	28,3
Southern Norway	3,4	3,5	2,0	3,2	2,9	3,0	3,5	5,6
Western Norway	15,6	16,4	15,0	16,4	18,9	17,7	16,5	25,6
Mid-counties	5,1	4,2	4,0	3,7	6,3	5,5	5,0	9,0
North counties	7,6	7,8	12,0	12,4	11,9	10,9	10,6	11,2
Other	-	0,1	0,2	0,4	0,4	0,4	0,4	-
Other: Norwegians living abroad								

For approx. 10% of all cases every year the plaintiff's address is unknown. The percentages therefore reflect the cases where address is known.

This pattern was well known in other Oslo-located national offices also, but it seemed important to try to counteract this tendency by giving other parts of the country priority in speaking engagements and visits. For example, meetings of parents in a school or preschool were hardly ever accepted in the Oslo area, but might well be accepted in Northern Norway. Also, visits provided opportunities to see conditions for children all over Norway, speak to local politicians, and establish contacts with children through local radio-stations and newspapers (there were no local TV-stations in Norway at that time).

Another guideline was giving priority to meetings, organizations, and institutions with participants/students who came from or would go to many parts of the country, preferably representing a variety of professions. As ombudsman, I gave 50 to 60 lectures and talks per year, and visited all counties and 150 (out of 438) municipalities at least once, some many times, during the years 1981-89. While the office budget could not cover all travel expenses many of these visits were made possible by institutions that would pay such expenses, particularly since no fee was accepted.

The topics asked for during the first year or two mainly concerned information about the Office, its purpose and ways of working. Later *"The changing situation for children in Norway", "TV and video, the effects on children", "Children and physical planning", "Why preschools, - new needs and requirements", "The needs and rights of children in our future society"* were popular demands.

CHAPTER FIVE

Applications, Complaints and Cases

Introduction

This chapter describes the general ways applications were handled, but also examines questions such as:

- Who turned to the Office?
- Which formal rules and informal guidelines were applied to handling different types of applications?

In this connection a closer look at the complaints of children was of interest: Who were they?

- Did age or gender make a difference in numbers or types of complaints?
- Were the applications from children any different from those from adults?
- How did the Office handle the applications and complaints of children?
- Could the applications from children lead to changes locally or nationally?

Although the numbers and types of complaints presented to the Ombudsman may not be truly representative of the childhood problems in Norway, their frequencies and importance, the composite does give a picture of the kinds of problems encountered. This chapter describes in detail the problem areas into which the complaints were sorted, corresponding to existing legislative and service systems. Each subchapter describes one sector, gives a brief outline of the theoretical foundation for the work within that area, examples of individual complaints and summaries of the main initiatives on issues of general interest.

The examples are mainly chosen from the complaints of children. In this way each subchapter also illustrates concerns of children, and what could be done about them.

1. Types of applications
General rules for handling

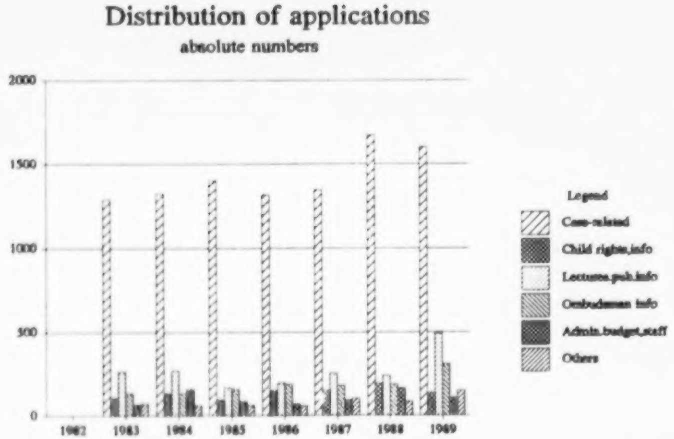
Applying to the Office, most people had a complaint, something they wanted the Ombudsman to do something about, often a situation which in some way should be corrected or changed. Others wanted information, either about the situation or rights of children or about the Ombudsman Office itself. Others again wanted the presence of the ombudsman at some kind of meeting, usually with the additional request of a lecture or talk. A few would call or write about vacant positions, from the Ministry about the budget or other administrational issues. Only the first type of application was recorded as complaints or case-related.

Table 10. Total number of complaints, requests, etc.

	1982	1983	1984	1985	1986	1987	1988	1989
Case-related		1289	1321	1402	1315	1345	1674	1601
Children's rights, sit. information		106	131	94	148	151	192	135
Lectures and other pub. information		263	269	167	195	252	240	494
Info. about Ombudsman office/duties		131	131	158	188	182	187	308
Administration budget, staff		64	158	83	67	92	165	105
Others		71	62	61	58	103	83	149
Total	1641	1924	2072	1965	1971	2125	2641	2792

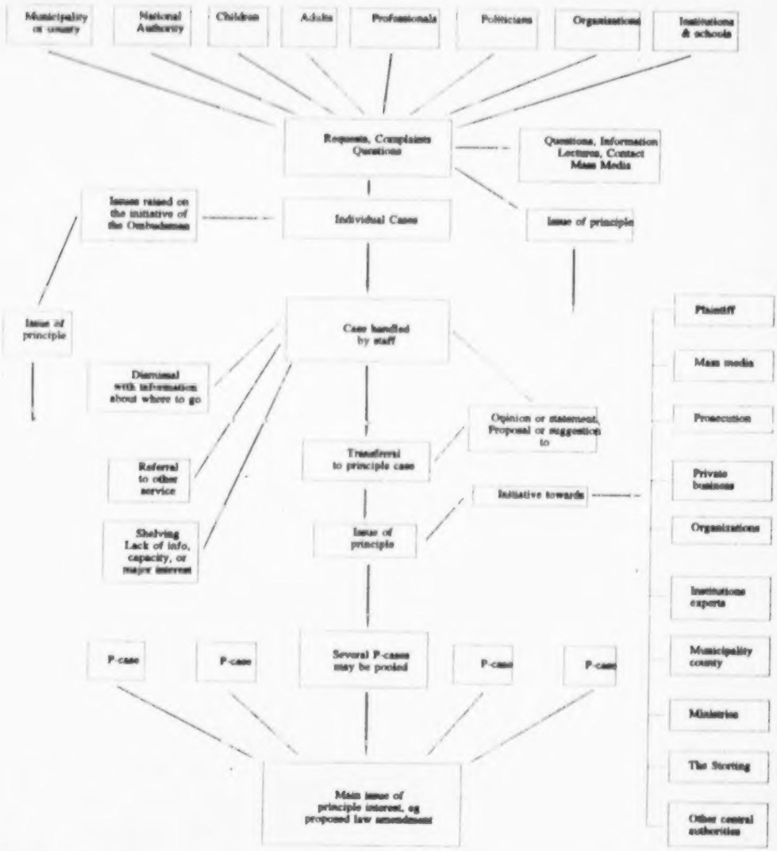
Breakdown for 1982 is not presented because groups 1 and 2 ("Case-related" and "Children's rights and situation, information-requests") were then combined (1210) as were groups 5 and 6 ("Administration" and "Others") (84). The variations in number of administration, budget and staff cases reflect periods with changes within the staff, e.g. applications and the replies to them being included here.

Figure 2.



Certain types of complaints must, according to the Act and instructions, be turned down or referred, others shelved. Apart from these, the Ombudsman is free to handle cases in any way deemed most efficient. There was no previous experience from which to learn. So during the initial period daily staff meetings discussed every complaint in detail, to examine case histories and to determine how to proceed. It was also necessary to clarify precisely which cases were actually (but not always obviously) a conflict between children and parents (or between parents) and which should be referred to other Ombudsmen or other services. The jurist had therefore to be aware of the legal implications of problems, and also check that the Office was working according to its own Act and instructions.

Cases with new angles or cases with any doubt about handling (e.g. when there were new staff-members) were always brought to the staff meetings/lunches. Teamwork was essential, particularly on larger issues, such as giving statements on proposals for law amendments. Drafts were corrected so freely that it was often


Municipality or county
National Authority
Children
Adults
Professionals
Politicians
Organizations
Institutions & schools
Requests, Complaints Questions
Questions, Information Lectures, Contact Mass Media
Issues raised on the initiative of the Ombudsman
Individual Cases
Issue of principle
Issue of principle
Case handled by staff
Dismissal with information about where to go
Opinion or statement, Proposal or suggestion to
Transferral to principle case
Referral to other service
Initiative towards
Shelving Lack of info, capacity, or major interest
Issue of principle
Plaintiff
Mass media
Prosecution
Private business
Organizations
Institutions experts
Municipality county
Ministries
The Storting
Other central authorities
P-case
P-case
Several P-cases may be pooled
P-case
P-case
Main issue of principle interest, eg proposed law amendment

impossible to know, in the end product, who had contributed what, subject to the final approval of the ombudsman, who was personally responsible for anything leaving the office. With differing viewpoints, discussions were continued until a consensus was obtained. If this proved impossible, both views might be given. Diversity of opinions indicated disparity in other quarters as well, so it was important that the Ombudsman gave reasons for why the issue was bound to cause dissent.

The number of case-related applications increased fairly steadily. Other requests remained stable. Requests for information, either on the situation of children or their rights (mostly related to the law), and about the Office, were answered when the call came, with printed material to follow when requested.

1.1. Handling individual cases

Individual complaints and issues of general interest might arise and be handled in various ways, as illustrated by the chart (see opposite page).

Of special interest is the path from children to the top-level decision makers.

1.2. From where did applications come?

Applications came from all quarters.

Complaints of the same issue, coming at approximately the same time, did not all become cases, but were "lumped" into one. When the Norwegian broadcasting company dropped Children's TV because a football-game (the World Cup) ran over-time[1], a series of complaints resulted in only one case.

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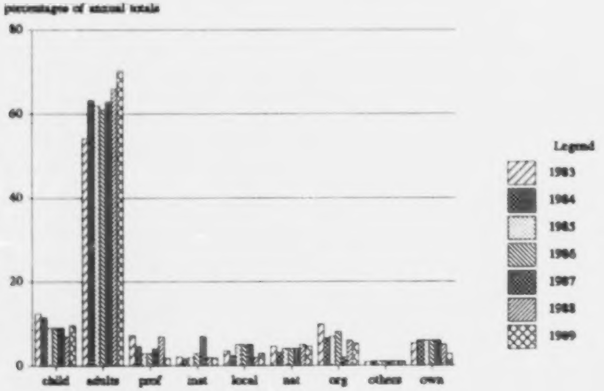
[1] This is, many would say, a minor issue, but it was an unjust discrimination of the youngest. The follow-up from the Ombudsman led to a general rule, namely that children's only daily half-hour of TV should have priority in such cases.

Table 11. From where did cases come?
Totals and percentage of annual number of cases.

	1983		1984		1985		1986		1987		1988		1989	
	N	%	N	%	N	%	N	%	N	%	N	%	N	%
Children	103	12,4	94	11,5	71	9,0	79	9,0	78	9,0	65	7,0	96	9,6
Ind. adults	449	54,1	518	63,2	498	62,0	523	61,0	554	63,0	634	66,0	705	70,2
Professionals	60	7,2	38	4,6	26	3,0	22	3,0	34	4,0	73	7,0	18	1,8
Institutions, Schools	18	2,2	14	1,7	17	2,0	27	3,0	61	7,0	17	2,0	18	1,8
Municipal or county auth.	29	3,5	19	2,4	36	5,0	42	5,0	42	5,0	20	2,0	30	3,0
National auth. ministries etc.	38	4,6	26	3,1	31	4,0	37	4,0	31	4,0	47	5,0	46	4,6
Organizations	81	9,8	53	6,5	59	7,0	68	8,0	18	2,0	55	6,0	53	5,3
Others	8	0,9	9	1,1	11	1,0	7	1,0	5	1,0	5	1,0	10	1,0
Office initia.	44	5,3	49	6,0	49	6,0	50	6,0	54	6,0	45	5,0	28	2,8
Total	830	100	820	100	798	99	855	99	877	101	951	100	1004	100

Figure 3.

From where did cases come



The distribution amongst various categories of plaintiffs does not, therefore, truly reflect the people, adult or children, who have actually complained. Thus, as a combined case was recorded according to the first source, children may have complained about something after it was first raised by an adult and vice versa. The distribution of sources reflects the first, not necessarily all sources. Figures 4, 5, 6 and 7 and the chart indicate how individual complaints might pass through the office, being dismissed, referred to others, shelved or given a more thorough handling, developing issues of more general interest. The reasons for dismissal and shelving are given in the instructions for the Office (Appendix One). According to the Public Administration Act, the Office must give a reply to all complaints and requests. Referring or dismissing a case might be just as time-consuming whether the reply was a blank dismissal or reference (with the reason given, as required) or not. Particularly when a child is involved or a family is in distress, the ombudsman considered it ethical as well as reasonable to help. The plaintiff should not have to go a whole "merry-go-round" before finding the right place/person to help.

1.3. Dismissals, referrals, shelving - or giving an opinion?

1.3.1. DISMISSALS/TURNING DOWN COMPLAINTS

Table 12. Dismissals (D), referrals (R), shelving (S) or further handling (F), related to total number of cases concluded during the year.

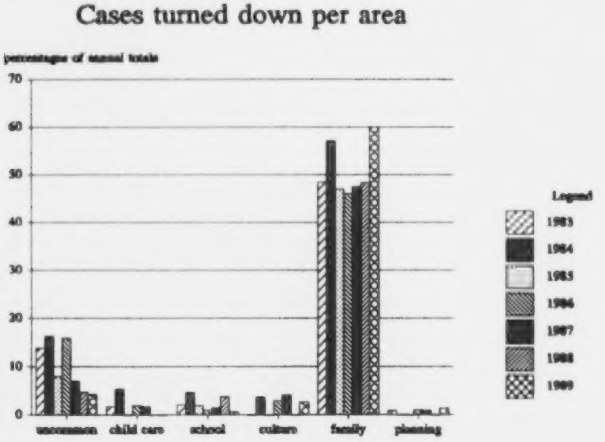
	1983		1984		1985		1986	
	N	%	N	%	N	%	N	%
D	144	18,7	162	22,2	131	20	164	23
R	183	23,8	180	24,7	167	25	187	26
S	299	38,8	271	37,2	221	33	181	25
F	144	18,7	116	15,9	152	23	187	26
Total	770		729		671		719	

	1987		1988		1989	
	N	%	N	%	N	%
D	153	19,7	162	8,7	165	17,1
R	187	24,1	285	32,9	296	30,6
S	266	34,3	280	30,2	327	32,6
F	170	21,9	138	16,0	178	19,4
Total	726		865		966	

This table reflects a change in that the number of cases in which an opinion was given seems to decrease in 1987 and 1988. The number of new problem areas necessarily decreased, while the number of problems to which the Office had given an opinion increased. A number of cases were therefore not handled once more. The plaintiff would in stead receive copies of earlier statements in similar cases, to be used at the best judgement of the plaintiff, often with a referral to the appropriate local authorities.

Cases concluded during one year might be re-opened later, if new complaints were received, or a new avenue of approach appeared. Therefore the total for each year here does not correspond with the total of cases pr. year.

Figure 4.



The number of dismissals[2] (figure 4) decreased somewhat during the years, except for the increase in dismissals of family problems in 1989. The distribution between problem areas remained quite stable, "family problems" naturally dominating. It was surprising how particularly adults would continue to turn to the office in matters which the Office is not allowed to handle, even the same individuals time and time again. A survey done in November, 1989 (Appendix Two) shows that this restriction was not generally known or accepted. One reason might be that people needing help simply did not want to know that the Ombudsman could not help. Some plaintiffs would insist that the Office break its rules, or have them changed "quickly, so you can help me anyway". Others would threaten to take the refusal to court or to complain to a ministry or the Storting. Only one did take such action, but was, of course, turned down by the Storting.

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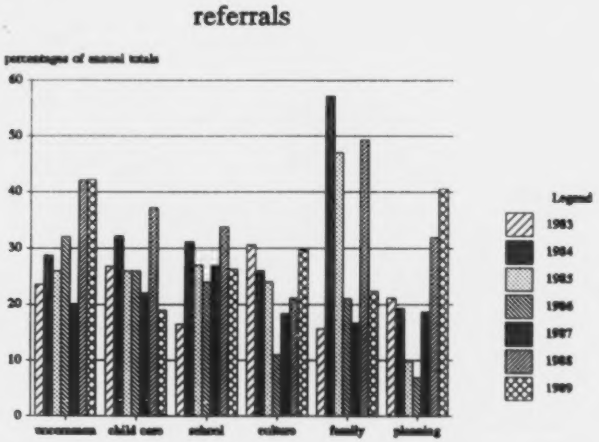
[2] In the distribution of how cases were handled, 1982 has not been included, as the recording into problem areas was established in a different way from 1983 on.

1.3.2. REFERRALS

Figure 5.



The relative number of referrals (figure 5) increased, probably in part due to increased experience of where the complaint would be handled effectively, not only in principle, but in practice. Also, when the amendments to the Planning Act were expected, cases of this type were referred to the Ministry of Environment, accounting for this increase in 1988 and 1989.

1.3.3. SHELVING AND GIVING OPINIONS

The relative number of cases shelved (figure 6) and the number of hearing statements and written opinions (figure 7) were relatively stable, the latter even seemed to go down.

Figure 6.

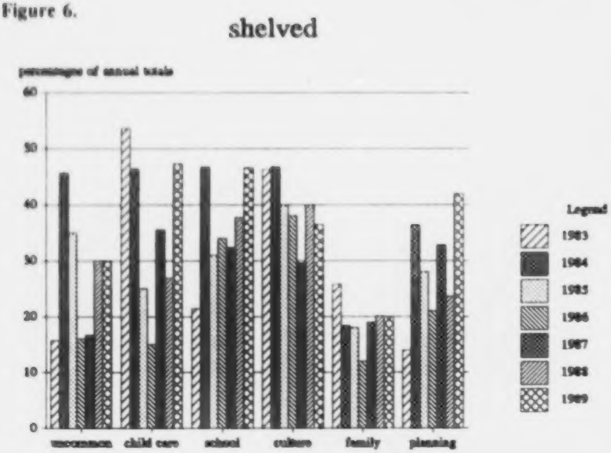
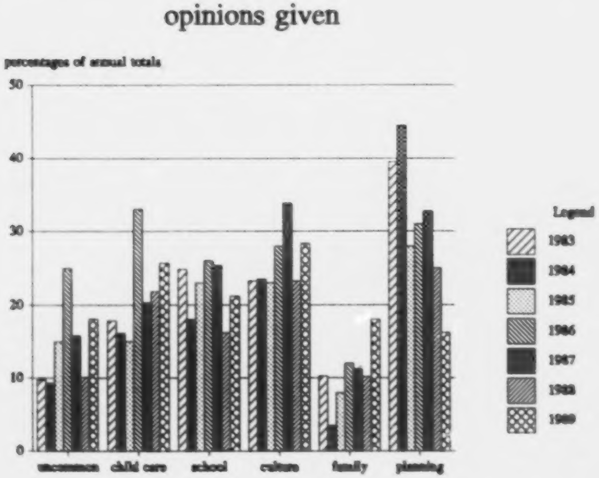


Figure 7.



The tables and figures do not reflect the fact that new opinions were not always given when the Ombudsman had handled similar cases before. The plaintiff (rather than, for example, a local authority) would receive copies of the previous statements, to be used at the best judgement of the plaintiff, who, knowing local conditions better than the Office could, would be able to use them in relation to local authorities, local press, or in other ways.

1.4. Distribution of complaints

1.4.1. INDIVIDUAL COMPLAINTS AND CASES OF GENERAL INTEREST

The relative predominance of individual complaints, mainly from adults also remained stable, as did the proportions of general interest-issue cases and hearing statements.

Table 13. Distribution of individual cases, cases of principle and hearings. Number and percentages of total.

	1982		1983		1984		1985	
I	630	87,8	694	83,6	705	86,0	670	84,0
P	74	9,7	107	12,9	79	9,6	91	11,0
H	19	2,5	29	3,5	36	4,4	37	5,0
T	712	100	830	100	820	100	798	100

	1986		1987		1988		1989	
I	717	84	750	86	839	87	896	89
P	111	13	97	11	90	9	76	8
H	27	3	30	3	32	3	32	3
T	855	100	877	100	951	99	1004	100

Cases of principle increased in complexity, while time spent on individual cases decreased. When an individual case was included or developed into a case of general interest, the individual case as such was closed. When smaller cases of general interest were combined, the smaller cases as such were closed.

This distribution does not reflect the size, complexity or time taken for each case, or the number of smaller cases which were closed when combined in a larger issue. As experience was gained, the time spent on individual issues decreased and time spent on issues of general interest increased. So the proportions of time spent on the different types of issues changed. Yet we wondered if we spent too much time on hearing statements. But the importance of such statements in Norway, the objectives of the Office (one of which was to point out that children are involved, are to be considered even in areas where this is not common knowledge), and the legal obligation to act as a hearing instance, made it difficult not to give an opinion. Some of these statements were comprehensive and detailed, for example, the statement on the effects on conditions for children because of changes in the distribution system of funds from the national to the local administrations, the statement on the proposal for a new Social Services Act and the opinion on the proposed reduction of space and staffing in nursery schools and kindergartens. Many were only a few lines long because the Ombudsman did not have additional or critical remarks, or when the Office referred the proposal to other, more competent bodies. In the records, this kind of "non"-statement was recorded as a statement (See Appendix Three).

Finally the tables do not reflect a most important difference between individual cases and cases of general interest, including hearing statements: In individual cases most frequently something had already gone wrong or was on the point of going wrong for a child or a group of children. The intervention could then be called "repair work", to correct or ameliorate an existing difficulty or at best try to prevent a planned action, for example, the destruction of a play area. In the issues of general interest and in the hearing statements the purpose of intervention and opinions would more often be preventative. New procedures, rules or amendments of law would be aimed at preventing future difficulties for children and their families. In other words particularly proposals for or opinions on law amendments were proactive, based on the needs of children and aiming at protection of the rights children therefore had or should have had.

1.4.2. DISTRIBUTION OF CASES ACCORDING TO PROBLEM AREAS.

Table 14. Cases distributed according to problem areas. Percentages of annual total.

		1982	1983	1984	1985
1. Children in institutions child welfare, abuse	%	166 21,7	144 17,3	153 18,6	163 20,4
2. Child care, public leisure facilities	%	65 8,5	63 7,6	69 8,4	70 8,8
3. School problems	%	102 13,4	137 16,5	136 16,6	128 16,0
4. Culture and consumer	%	104 13,6	88 10,6	88 10,7	86 10,8
5. Family circumstances	%	194 25,4	253 30,5	238 29,0	242 30,3
6. Physical conditions, urban and rural planning	%	95 12,5	118 14,2	117 14,3	98 12,3
7. Miscellaneous		37	27	19	11
Total numbers of cases		763	830	820	798

		1986	1987	1988	1989
1. Children in institutions child welfare, abuse	%	174 20,4	196 22,3	257 26,7	304 30,3
2. Child care, public leisure facilities	%	55 6,4	59 6,7	78 8,1	74 7,4
3. School problems	%	129 15,1	130 14,8	127 13,2	137 13,7
4. Culture and consumer	%	79 9,2	71 8,1	95 9,9	74 7,4
5. Family circumstances	%	279 32,6	276 31,4	294 30,6	317 31,6
6. Physical conditions, urban and rural planning	%	112 13,1	113 12,9	72 7,5	74 7,4
7. Miscellaneous		27	32	38	24
Total numbers of cases		855	877	961	1004

The great variety of problems raised were sorted into six main problem areas, more or less clearly connected with parts of the Norwegian system, for example, the health services or the school system.

The Office expected a decrease in the number of cases in 1983, after the first flurry in 1982. This did not happen. The total number of cases, with the exception of 1984/85, shows a steady increase, with a stable balance between the various problem areas. 1984/85 was election-year (elections in September 1985) which changed the pattern of issues presented in the mass media and therefore in the minds of at least the adult population. A similar dip did not appear for 1989 (also an election year), but this is difficult to evaluate because of the change of ombudsman in the same period.

1.4.3. CASES FROM AND STATEMENTS TO MINISTRIES, LOCAL AUTHORITIES, AND ORGANIZATIONS

The requests/complaints from ministries, local authorities and organizations must be seen in connection with other factors in society. The fact that 1985 and 1989 were election-years would for example, mean that all attempts on the part of ministries to conclude issues for the Storting must be stepped up in the year prior to elections, while election-year itself would mean a decrease in conclusive action, particularly in an unstable political situation. Organizations might also be expected to accelerate activity in between-election years. Uncertainty connected with a change in the Office itself, reflected in the 1988 statistics, might bring a lull in 1988-89. In fact, the proportions of complaints from local authorities was higher in 1989 than in 1988, but 1988 was the year with the all-time low for this category of plaintiffs. For organizations and national authorities the numbers were lower in 1989.

The activity of the Office itself does not reflect these trends. The number of cases of general interest, and the combined number of individual cases with general interest and hearing statements are surprisingly stable, indicating also that an average of two general statements per week was about the limit of the Office capacity.

Table 15. Written opinions in individual cases were submitted to:

	1983	1984	1985	1986	1987	1988	1989
Ministries	6	9	6	10	8	9	5
Other nat. body	2	2	3	1	4	5	0
Counties	3	3	3	1	1	1	2
Municipalities	39	29	35	43	28	18	8
Institutions, professionals	0	2	4	2	1	1	0
Organizations	7	8	10	2	2	2	2
Priv. business	3	6	4	2	2	2	0
Police	2	0	2	4	1	0	2
Mass media	3	5	5	2	4	3	0
Research inst.							
Others					13	21	4
Total	65	64	72	67	64	62	23

Opinions in individual cases to these groups most certainly have some principle interest. Not included are hearing opinions and issues of absolute general interest. In the latter cases opinions were sent to the body requesting an opinion (e.g. a ministry concerning amendments to legislation) but would also be circulated widely to municipalities, organizations or individuals who should be interested, for use as the recipient might judge it useful. Such use of opinions are not included in the statistical material available.

Adding to these the hearing statements:

	1983	1984	1985	1986	1987	1988	1989
	29	36	37	27	30	32	32
Total	94	100	109	94	94	94	55

1.4.4. CHILDREN'S COMPLAINTS

1.4.4.1. *Distribution*

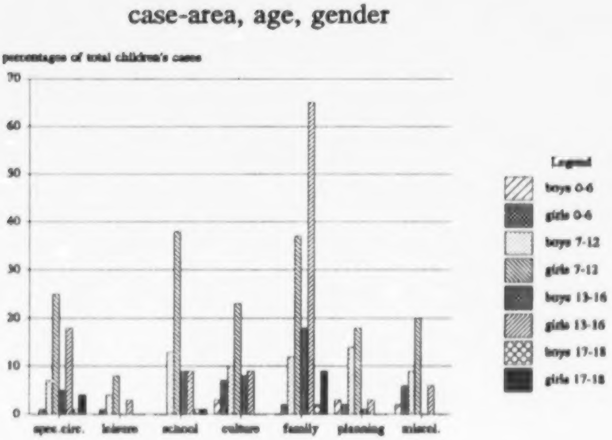
Many children turned to the Ombudsman about issues already raised by adults. Thus the resulting case would not be recorded as a "Children's complaint". Other applications from children would be requests for information, as the adults did. The children rarely asked for lectures, but would ask questions never asked by adults, for example, if they had problems with their homework or wanted to know something they found it difficult to ask others about, for example sex information. Looking at the cases, not the numbers, it is clear that children covered a wider span of problems than adults did. They raised issues not mentioned by adults, while hardly any problem raised by an adult was not also raised by a child, - often in a more concrete, direct, individual fashion. The number of cases raised first by children were so varied that they should represent the concerns of children well (table 16; figure 8).

Table 16. Case-areas, age and gender (1982-88 combined).

	Age 0-6			7-12		
	m	f	T	m	f	T
1. Spec.	0	1	4	7	25	32
2. Leisure	0	1	1	4	8	12
3. School	0	0	0	13	38	51
4. Culture	3	7	10	10	23	33
5. Family	0	2	2	12	37	49
6. Planning	3	2	5	14	18	32
7. Miscel.	2	6	8	9	20	29

	13-16			17-18		
	m	f	T	m	f	T
1. Spec.	5	18	23	1	4	5
2. Leisure	0	3	3	0	0	0
3. School	9	9	18	1	1	2
4. Culture	8	9	17	0	0	0
5. Family	18	65	83	2	9	11
6. Planning	1	3	4	0	0	0
7. Miscel.	0	6	6	0	0	0

Figure 8.



Even the cases known to be raised by children first are difficult to evaluate in terms of how many children were actually behind the complaint. From children, far more often than from adults, complaints were signed "All the children in H-street" or "The pupils of X school" or "All of us in Mountain Valley", without any indication of how many "all of us" actually were. Children telephoning would often have an audible, but unknown number of friends or supporters in the background.[3]

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[3] In the tables and graphs individual children only are used where the aim was to get an impression of a total picture (e.g. table 16). Schools have not been included since the size of a school can vary from under 10 to nearly 1000 pupils. Classes have been included by using the average number of pupils per class (17), splitting the number 50-50 to calculate gender distribution.

The main group of children turning to the Office were schoolchildren[4] aged 7-12 years, with the early teens a clear second (figure 8, and tables 16 and 17).

Out of the absolute minimum of 1100 cases raised by children until September 1989, girls outnumbered boys 2:1 on all age levels.

Table 17. Age-distributions, 1982-1988.

Age is known for 411 individuals (classes, schools etc. not included).

	Total		Male			Female		
Age	T	%	nr.	%/m	%/T	nr.	%/f	%/T
0-6	24	5,7	8	6,5	1,9	16	5,5	3,8
7-12	236	57,4	69	56,1	16,8	167	58,0	40,6
13-16	137	33,3	42	34,1	10,2	95	33,0	23,1
17-18	14	3,4	4	11,4	1,0	10	3,5	2,4

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[4] The youngest self-initiated call was from a girl of 4, concerned about her own "unemployment". To young for school, with no available preschool, she wanted to know if she could get a job distributing newspapers. Collaborating with her mother, we found her a job as a daily visitor and errand-girl for an elderly, housebound lady next door.

Figure 9.

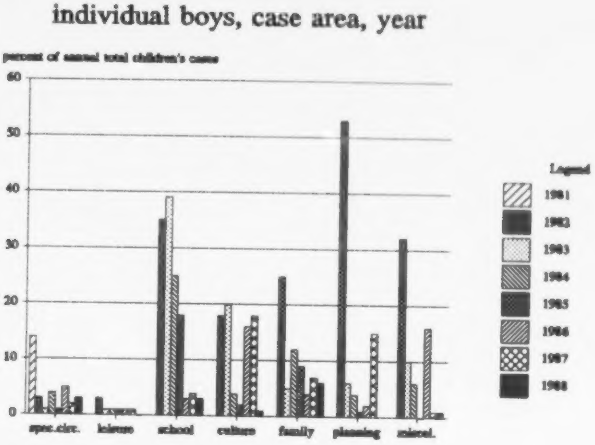

individual boys, case area, year

Figure 10.

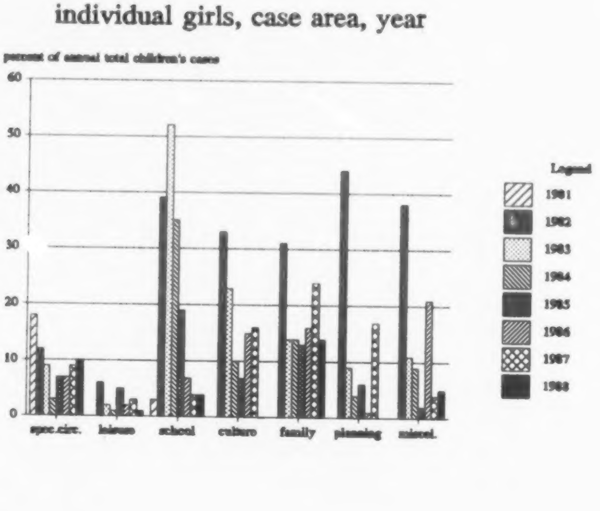

individual girls, case area, year

Table 18. Individual children, sex and complaint category 1981-1988. Schools not included. Classes split 50-50 male-female.

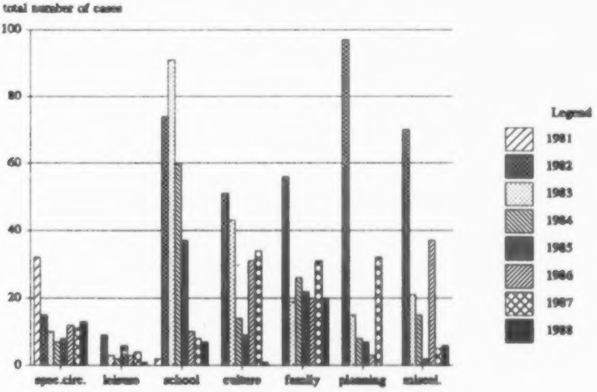
cat.	1981		1982		1983		1984		1985		1986		1987		1988		anon			
	m	f	m	f	m	f	m	f	m	f	m	f	m	f	m	f		m	f	T
1	14	18	3	12	1	9	4	3	1	7	5	7	2	9	3	10	5	33	75	113
2			3	6	1	2	1	1	1	5	1	2	1	3	0	1	0	8	20	28
3		2	35	39	39	52	25	35	18	19	3	7	4	4	3	4	2	127	162	291
4			18	33	20	23	4	10	2	7	16	15	18	16	1	0	2	79	104	185
5			25	31	5	14	12	14	9	13	4	16	7	24	6	14	2	68	126	196
6			53	44	6	9	4	4	1	6	2	1	15	17	?	?	1	81	81	162?
Total 1-6			307		181		117		89		79		119		42?					
7			32	38	10	11	6	9	0	2	16	21	1	4	1	5	2	66	90	158
	14	20	169	203	82	120	56	76	32	59	47	69	47	77	14	34	14	462	638	
Total			372		202		132		91		116		124		48		1114			

Category numbers refer to numbers in table 16, 1989 not included. Analysis of children's cases not available.

Elementary school girls were frequent reporters of school problems, while teen-age girls seemed most concerned with family conflicts and their own rights within the family. The only area in which boys came close to the same number of complaints as the girls was in the planning area. Looking at the individual cases and splitting the groups so that 11-14-year old girls are compared with 13-16 year old boys, the boys outnumber the girls, perhaps reflecting the maturational age-difference between the two sexes.

After 1982 complaints from children regarding the "Family situation" fell to a stable and relatively low level. Children learned (and more quickly than adults) which cases the office was not allowed to handle. The number of "School problems" (after peaking around 1983) fell after the new school plans had been adopted.

Figure 11. Distribution of children's cases in areas over the years.



It is difficult to interpret the other differences from year to year. Even if the absolute number of issues raised by children areas remained stable, the total numbers are so small that even a very few cases can make a visible difference in the percentage distributions.

Some inconsistencies in recording were also noted later. In the early years some complaints were recorded as "Children in uncommon circumstances" which later were classified as "Family situation". And in some "grey zones", such as dangers on the way to school, might in some cases (or by some staff members) be recorded as "School problem", in others as a "Planning" problem. Looking over the registered cases raised by children, these inconsistencies seem to balance eachother out, but as a source of possible misinterpretation, the problem remains.

Even with these sources of uncertainty, and even if the actual numbers of cases raised first by children remained relatively stable, the decrease in the relative numbers of cases was a matter of concern.

The most optimistic - and to some the most obvious - reason for the relative lack of complaints from children was of course the possibility that children in Norway are happy, healthy and content, in every way.

The Office was aware that being a "complaints"-office could distort our perception of conditions for children. We were constantly reminding ourselves that "There are very many happy children here". Many good things - of which we heard little - were undoubtably going on. But the complaints did disclose serious issues, and there was no real evidence that conditions were improving in general or in any one area. Even when the number of cases dropped within a problem area, there were usually other reasons, for example, that new plans had been adopted. Then it seemed natural to see how they worked before complaining again.

The lack of increase in the absolute numbers might be due to our inability to reach children through the medium which was the most important one to them. But it might also reflect the fact that there can be a limit to how many new issues children can raise first, in an adult world. It might also reflect the possibility that children under teenage-level, expecting rapid results more than adults do, would give up more easily when the results were not forthcoming and not attempt to get help from the Office if they had not heard from someone else that we could help.

1.4.4.2. *Why did they call the Ombudsman?*

Children might spontaneously or as a reply to a question tell why they called the Ombudsman. "I saw your number in the telephone-book and wondered what you do" or "I needed to talk to somebody and there's no one at home". Parents or other adults might encourage or discourage a call: "My mother suggested I call you about this" or "My father told me not to bother you, but I decided to try anyway". Many said, "I'm calling you now, so my parents won't know", particularly about conflicts between children and parents, either in their own family or in some other family.

A question was sometimes raised: whether all the children who called were "resourceful", and then, "What about the ones who might really need help most?". Certainly children must be able to place a call, particularly if their parents were unwilling to help. But apart from that, even very young children (down to age four) or obviously handicapped children (e.g. mentally retarded) were amongst the children turning to the Office.

1.4.4.3. *Did they always get support?*

Children turned to the Office for a variety of reasons, with different ideas, problems and opinions. Adults were occasionally disgusted when the Ombudsman did not support their child. Working for the interests of children does not mean agreeing with each of them. Children themselves generally understood when reasons or other opinions were given, often commenting, "no-one explained it to me like that before". In one sense all children got support, in that the Office gave them an honest opinion and respected their right to state an opinion and disagree with the adults. It seemed that children found it easier to accept disagreement when they were talking to someone who was not their parent. Since the Office was far away from their local community, they might feel free to speak about sensitive issues, knowing that no-one would be informed and also that their story would be accepted. On rare occasions the story might be a fabrication. In this connection my professional experience was an advantage. It was not my aim to reveal a fantasy, but to leave the child without a loss of face and with a feeling of having been understood. On the other hand, I did not want a child to give away more than was needed to give advice or uncover secrets which might make the child feel uncomfortable later. This could be a balance particularly when the application concerned family matters. And there was no way to find out how the individual child experienced the contact with the Office.

2. Cases within different problem areas

2.1. The family situation

2.1.1. BASIC CONSIDERATIONS

This section will not discuss characteristics of parental style (e.g. Baumrind 1971, 1980), the effects of different child rearing practices (see e.g. review of research by Martin 1975), child abuse (Kempe & Kempe 1978) or the dynamics or common problems between children and parents. It is concerned with the problems which societal developments create for parents, and with the problems for children when "things go wrong", for example when parents separate.

A good family with well functioning parents are valuable support systems for children. It is possible that conditions in a society create problems for parents (lack of support systems, increase of worries) which may be factors in the total strain leading to parental break-up or to parenting which is less than the optimal parents could provide if less strained. It is difficult to know precisely whether the sum total of worry is larger for present-day parents than for previous generations, and how each family copes. But improving conditions for families and for parents' possibilities to function well as parents should in turn improve conditions for children. Among other things, parents need time and opportunity to be with their children. Better information about children and how they develop can relieve parents of unnecessary anxiety and guilt feelings.

Conditions for children are affected by working hours for parents, economic support systems for families, the parental rights to leave when the child needs parental care, in the planning of communities so that work and home are not too far apart, transportation available and good day-care obtainable.

2.1.1.1. *Children and parental separation*

Parental separation does not depend on whether parents have been married or not. While there is no specific research on the consequences of separation when the parents were not married, there is hardly reason to believe that the consequences for the children will differ greatly from those of children in divorce. In part the effects of parental separation on the child can be a result of reduction of living standards (less money, a new place to live, new school), changes in contact with parents (one is working full time, the other is not there daily). The primary concerns are the effects on the child's emotional well-being. Research from Europe and the United States (Wallerstein & Kelly 1980; Nissen 1985, Hetherington et al. 1978, 1982; McDermott 1970) indicate that effects, particularly long-term ones, depend on the age and sex of the child, the length of time the parental relationship was difficult, the degree of hostility between parents, how the parents explain the separation, whether parents use the child as a pawn in their own battles, how the parents adjust after the separation, and the degree and quality of the child's subsequent relationship with both parents. Most children feel some emotional distress when parents separate. Some (particularly the younger ones) may feel responsible and guilty, some feel rejected by the parent who leaves and some are anxious to lose the parent still there.

When parents separate, both parents need time and opportunity to be parents. Even more important, the child still needs both parents, loves them both, and in the view of the Ombudsman, should not suffer needlessly from the separation. Parents as well as other adults should therefore try to base their decisions and problem solutions on what is in the best interest of the child. In a total evaluation of the situation, the needs and best interests of children should be the governing principle of the divorce process, as well as in rules and services to parents and children after the separation.

2.1.1.2. *Single-Parent Families*

The effects of growing up in a single-parent family depend on the time period during which the parent is single, as well as on the material and other conditions of the family during that period. Many single parents establish new relationships; for example, four out of five American divorced people remarry within two or three years (Papalia & Olds 1981). Long-term single parenthood does seem to have negative effects on children, in general more severe for boys than for girls. Most single-parent families are mother-only families. American children from these families tend to perform less well on standardized tests and in school (Biller 1974; Shinn 1978), if the family does not function well and the children do not have close contact with other loving adults than their parents. Boys seem to have some difficulty achieving a clear masculine identification, are less assertive and more dependent, especially if the fathers are absent during the preschool years. The effects may disappear when other males begin to serve as models. The problems of girls seem to be less clear, and also depend on whether the mother is single by divorce or by the death of the father (Hetherington et al. 1978, 1982). The effects of living with just one parent does not always lead to ill effects. Several studies (Ahlstrom & Havighurst 1971; Rutter 1971) indicate that children are better off in a stable single-parent family than in a two-parent family characterized by strife between the parents.

2.1.1.3. ***Working mothers and the value of fathers***

It can be difficult to differentiate the effects of a lack of stable contacts and the effects of sensory deprivation, since the two often have occurred together. However, the young child needs a few stable as well as caring adults (Bowlby 1969, 1973, 1980; Spitz 1945, 1965; Rutter 1979). The adults need not be the biological parents, as demonstrated by adoptive children who develop normally even when they received poor care during the first months (Tizard 1977). Evidence of the ability to trust appears when the child shows separation and stranger distress ("eight-month anxiety"), which seems to peak at around one year and then gradually decreases, particularly as the child understands that objects out of sight have not ceased to exist, during the second year of life (Flavell 1963). Possible negative effects can be prevented by providing few and stable caregivers as supplements or substitutes for parents. These considerations are basic to the arrangements that need to be made for very young children when mothers work or are otherwise separated from their children (children in hospital, day-care, mothers in prison).

Reviews of research on maternal employment (e.g. Hoffman 1974) show that maternal employment allows for conclusions: Employed mothers, for example, offer different role models than un-employed mothers. Their school age children are more open in their sex-role views and have higher aspiration for education and careers (Miller 1975; Etaugh 1973). According to Hoffman (op. cit.) employment "affects the mother's emotional state - sometimes providing satisfactions, sometimes role strain, and sometimes guilt - and this, in turn, influences the mother-child interaction". Skard (1965) found that whether the mother works outside the home or in it is less important than whether she enjoys what she is doing. Women who like their lives are more likely to communicate a sense of joy to their children, who, in turn, are likely to be better adjusted. Howell (1973) found that by most parameters children of employed mothers do not differ with respect to peer relationships, school grades, IQ, emotional problems, dependence or independence. "Since parenting ability may be either enhanced or hindered by employment, it is not surprising that almost every childhood behaviour characteristic, and its opposite, can be found among children of employed mothers... in general the more careful the methodology of a study, the smaller the differences found" (Howell, page 328).

In 500-page books on child development perhaps two or three pages are devoted to the father's influence on his children, while mothers and "parents" appear on page after page. This not very scientific fact perhaps illustrates the way the role of fathers has been underestimated. Fathers can definitely take over all the tasks of child care (except breast feeding), and they have qualities that mothers do not. Fathers are stronger, have larger hands, and often engage in more rough-and-tumble activities with even small children than mothers do. In the school years the father's influence on intellectual development of American boys and girls has been demonstrated (Clarke-Stewart 1977; Hoffman 1973). Also, boys who have high self-esteem report closer relationships with their fathers than boys with low self-esteem (Coopersmith 1967). There also seems to be a relationship between delinquency in boys and paternal behaviour (Glueck & Glueck 1959, Lynn 1974).

The question of why fathers spend little time with the children is closely related to their working hours. Why they take a smaller share of responsibility for children than mothers do may be a question of sex-role patterns, which for example might lead to feelings of low self-esteem in mothers if they relinquish some of the responsibility.

2.1.2. THE EXISTING NORWEGIAN SYSTEM FOR PARENTAL RIGHTS AND FAMILY PROBLEMS

2.1.2.1. *Rights and responsibilities for parents*

The most important existing legislation in this area is the Parents and Children Act, adopted in 1982. This Act describes the responsibilities of parents and the rights of parents and children. The term "parental authority" of previous legislation was replaced by "parental responsibility".

The Guardianship Act describes the financial relationship between parents and children, but also defines when and how the parents must act legally for their offspring, and who should act in their place if the parents are unsuited or unable to act as guardians.

Other legislation directly concerning parents and children includes the Adoption Act, the Act of Artificial Insemination, In Vitro insemination etc., the Act of Inheritance, and the legislation concerning parents in their joint roles of employees and parents, for example, legislated rights for parents for job protection and paid leave after the birth of a child or when a child is handicapped or ill.

In Norway employed mothers since May 1990 get 28 weeks leave with full salary after the birth of a child.[1] After the first 6 weeks, the father may take over, but the remuneration is still based on the mother's salary. It is also possible to spread the leave over a longer period, with 80-85% remuneration for the 30-32 weeks. All employees have the right to an additional 52 weeks leave without pay. Breastfeeding mothers also have the right to 1 hour reduced working day in order to be able to breastfeed, while mothers employed by municipalities or the State have the right to 2 hours per day without loss of income.

Parents have the right to stay with a sick child up to 10 days per

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[1] Parental rights in the Nordic countries. The birth of a child.

Length of leave:

Sweden:	52 weeks
Finland:	44 weeks
Denmark:	28 weeks
Norway:	28 weeks

Sweden: All mothers are guaranteed at least 90% of their salary for 9 months + 60,- S.Cr. (approx. U.S.$ 10,-) per day for an additional 90 days. The 360 days can be split up and used as whole days, half- or quarter days, but must be used before the child is 4 years old.
In 1988 a proposal was made to extend the 360 days to 520.
Fathers have the right to 2 weeks leave with full pay. 81% of the fathers use this possibility.
Denmark: 4 weeks leave before the birth, 24 weeks after the birth of the child. The employee is given compensation for her salary, but the amount varies according to the salary level. Roughly speaking high-income employees get 50-60%, low-income employees 90% of their salary. Danish mothers do not have the right to unpaid leave after the 28 weeks. Fathers have the right to 2 weeks leave, but no compensation.

year each, single parents have 20 days.[2] This does not depend on the number of children in the family, but on the children's age, lasting until the youngest child is 10 years old. Parents of handicapped or chronically ill children have extended rights, twice the number of days of other parents.

Norwegian parents get an un-taxable monthly allowance per child, the amount increasing per child for every child. The parents of 2 children receive more than twice as much as the one-child parents. Single parents receive an allowance for one child more than the actual number they have under the age of 16. Families also get tax benefits and deductions when they have children.

2.1.2.2. *Divorce procedures and frequency*

Married parents have joint responsibility for their children, even when the parents do not live together, until a different decision is made by the parents or the legal system. Joint care, the child living with both parents, alternating periodically, is rare. So while responsibility is shared, the daily care rests with one parent, most frequently the mother. Mothers no longer have legal priority in custody cases, the decision is based on "the best interests of the child".

Parents may agree on custody, visitation rights and child support. If they do not agree, they can - when this is agreed upon - ask the county authorities to decide the issues. If they do not agree to do this, the case goes to court. Ninety to ninety-five per cent of the cases are agreed upon by the parents with or without the help of the county. There is no special family court. Lower court decisions can be appealed to superior court. Professional opinions can be required by the courts, or reports may be required e.g. from the local child welfare/health and social welfare system.

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[2] When a child is sick.
Sweden: Parents have the right to paid leave (90% of their salary) 60 days per year per child, regardless of whether the parents are married or not. The right can be used when the child (up to the age of 12 or extended when the child is seriously ill or handicapped) is sick, when the child care person is sick, when the child needs to got to a doctor or dentist. In 1985 Swedish women used 7,5 days per year, Swedish men 5,5 days per year this way.
Iceland, Denmark and Finland do not have legal rights for parents to care for sick children, but non-legal rights exist, as results of labor-union agreements.

Divorce has increased steadily in Norway, as has the number of children born of unmarried parents. The number of divorces increased[3] by nearly 50% between 1980 and 1987. Accordingly approximately 20% of all children will experience divorce before the age of 18 ("Facts about Children in Norway" 1990). Twenty-five per cent of all children are born of unmarried parents, but many parents get married after the birth of their first child, usually before that child is two years old. Eighty-eight per cent of all two-year-olds live with both parents, 83% of all children live with both parents. (Samfunnsspeilet, in "Facts about Children in Norway" 1990). The number of remarriages recorded in the marriage statistics has doubled during the past 20 years, so many children have single-adult families for a few years, but not permanently ("Facts about Children in Norway 1990).

The rights of the child following parental separation were established in the Parents and Children Act in 1981. The child - not the parents - has visitation rights, while the parents are responsible for cooperating so that visitation rights can be upheld. Until 1988 the child did not have this right if the parents had not lived together after the birth of the child (see below page 183). Both parents are obliged to contribute to the support and education of the child until the child has completed "ordinary education", usually at around age 18. Thus the parent with whom the child does not live usually pays child support, a minimal national level being set each year (approx.

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[3] The number of divorces rose from 6634 in 1980 to 8.417 in 1987, the number of children involved from 7.700 to 8907. (NOS)

U.S.$ 125,- pr. month in 1989). Child support can be deducted from the salary of the payee, but if the parent is unable to pay, the other parent can receive this minimal amount from public sources, considered as a debt to the State. A single parent may also receive "transitional benefits" while going to school or otherwise preparing for a job. Divorced parents also have a higher child allowance, higher tax deductions and may get child care benefits (until the child is 10 years old).

The implementation of legislation and rights described above are carried out by the Ministry of Health and Social Affairs, the Ministry of Justice, the Ministry of Local Administration and Labor, and the Ministry of Consumer Affairs and Government Administration.

2.1.3. COMPLAINTS, CONCERNS AND CONSEQUENCES

Preschools and schools, leisure time activities and the mass media all have an impact on family functioning. The family situation as a special area of concern for the Ombudsman reflects problems which arise within or touch upon the family more directly, such as parental separations, economy and job situation, parental rights to care for children, and the children's own rights within the family.

The legal rights and the economic support granted to Norwegian parents are better than in many other countries, but not as good as in others. In the view of the Ombudsman, the changing situation of parents (e.g. with both parents working) and the changing situation of the child in the family (e.g. the low number of children in each family) is not sufficiently reflected in existing law or present support-measures.

In spite of the fact that the Ombudsman Office is not allowed to handle individual conflicts in the family, complaints of this kind were numerous.

Table 19. Problems raised in problem area "Family situation".

	1982	1983	1984	1985	1986	1987	1988	1989
Economy						23	25	44
Work/job situation	32	43	24	35	45	20	24	18
Living conditions						1	1	1
Neighbor-hood	24	17	19	13	18	15	11	13
Divorce	116	150	147	144	154	157	169	176
The child in the family, rights		38	35	41	45	50	59	61
Miscella-neous	22	5	13	9	13	10	5	4
Total	194	253	238	242	279	276	294	317

This constituted 27-34% of all the adult complaints, 17-35,5% of the children's complaints, with an annual increase on the part of the children.

Table 20. Complaints from the children.

Year	Total all cases			Total problem area				
	T	A	C	T*	A**	%	C***	%
1982	763	621	142	194	170	27,4	24	16,9
1983	830	727	103	253	235	32,3	18	17,5
1984	820	726	94	238	225	31,0	23	24,5
1985	830	727	71	242	221	30,4	21	29,6
1986	855	766	79	279	259	33,8	20	25,3
1987	877	719	78	276	251	31,4	25	32,1
1988	1004	908	96	317	281	29,9	36	37,5

T* = Total of all cases in problem area.
A = Total of adult cases in problem area, % of annual total of adult cases.**
C* = Total of children's cases in problem area, % of annual total of children's cases.**

The importance of the absolute rule against handling such cases except by referral, was immediately evident. Allowed or encouraged to get involved, the Ombudsman might have become a "Super Psychologist" or "Superior Child Welfare Board", or an appeals institution for anyone who was not satisfied with the services elsewhere. This would, for example, have led to a very difficult relationship with professionals with an intimate knowledge of the individual cases. Turned down individually, the complaints gave grounds for raising issues of procedural changes, law amendments and strengthening of existing rules. They also disclosed that the institutions responsible for giving plain information and other assistance were not sufficient.

The aftermath and conflicts of divorce were obviously the most frequent reason for complaint. But problems related to the working conditions and economy of the families increased, partly due to the increasing difficulties on the labor market, combining with the rising cost of housing. An expected increase of complaints in 1988, in connection with the heated debate on the rights of the child to access to both parents, proved to be small, however. Judging from reactions to the Office it was clear that most people understood and agreed with the proposal and views of the Ombudsman.

The total number of complaints from children in this area did not increase. The complaints were particularly frequent in the 13-16-year group, which was not so remarkable. The younger children would call to ask whether adults may hit their children; the older group was concerned about their own rights in divorce, their right to decide for themselves. They were more vocal about family conflicts which may occur after parental remarriage, perhaps because getting a step-father or -mother is easier to accept for younger children.

Many youngsters wondered if they "have to" or may choose between mother and father after divorce. Others, particularly when a dispute arises with parents, asked if they could use money they had earned (yes, after age 15) or inherited/received as gifts (no), if parents could decide what organizations (including churches) youngsters should belong to (no, not after age 15) or which friends they could have (dubious!) or what clothes they should wear.[4] All these questions reflected the balance between adults' right to make decisions and the young people's own rights, increasing as they grow up. The Ombudsman could give information when the rules were clear, but must not get involved in the dispute.

Sticking to the rule was not always easy.

> *Paul (13) was sent to bed at 5.30 p.m., every day, while the other boys were playing football outside his windows. Informed that he had to talk to his parents, he replied that they would not talk about it, they wanted "some peace and quiet without him". To the ombudsman this indicated that his parents might be rejecting the boy. They insisted that he needed at least 13 hours of sleep, he said, so he was advised to ask the school doctor about the need for sleep in general at his age, and have a check-up to establish if there were special reasons for needing more. If this information confirmed his own opinion, he might get help from someone outside the family in discussing the matter with his parents.*

The Ombudsman concern about the situation of families with children was reflected in general statements, e.g. the Ombudsman commentary to the State Council's report to the Storting on "Family policies" in 1985. One issue was the changing family situation (for the family in society and for the child within the family) and the consequences these changes should have for policy, emphasizing the importance of recognizing interrelationships between various aspects of society and the measures chosen amongst possible alternatives to help.

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[4] The list of "Rights and responsibilities of children", published by the Ombudsman, was very useful with this age-group. See translation in appendix.

An increase in child allowance or increased tax reduction for families with small children is useless if food-prices or the price to be charged for preschool increase more than the child allowance or the reduced tax. Any kind of allotment, to have any real effect, should be based on knowledge of the expenses actually involved in bringing up children. The funds thus allocated and the investments made in programs and institutions for children should also be compared with the cost of *not* investing in children, the expenses incurred later if children do not have their basic needs covered in younger years.

2.1.3.1. *Working parents*

The difficulties involved in combining out-of-home work and care of children is an important parental concern. In addition to the provision of good day-care, labour market conditions could be altered to suit the needs of parents better (for example, flexible hours, shorter work day, opportunities for paid leave due to child concerns) and so benefit the children. The Ombudsman repeatedly attempted to improve the right to paid leave after the birth or adoption of a child and to take care of sick children.

2.1.3.1.1. With a new baby

Based on the needs of very small children for a few, stable adult caregivers, the Ombudsman repeatedly demanded paid leave for one year after the birth of a child, a leave the parents might share. Aware of the expenses involved for employers or public budgets, the Ombudsman suggested as a temporary measure that the parents should have the right to one year leave, with six months full pay. The parents could then choose six months with full pay or 12 months at 50%, which ever suited each family best. (Choice is important. If parents are happy with their situation, they will function better as parents, see above page 32). Some parents might want to work part-time, in which case the baby would spend "part-time" days with a caregiver, for many children better than spending most of the time away from mother and father. These proposals could encourage fathers to participate more, if the compensation was based on father's salary (in most cases higher than mother's, since many women have lower paid jobs or work part-time before the child is born).

Gradually changes are being made. The right to leave is 28 weeks as of May 1, 1990, and flexibility is being introduced, with the option of a few weeks longer leave, the compensation set at 80% during the entire period of time. Women who were not employed before pregnancy get a fixed amount.

2.1.3.1.2. When children are sick

> *Lisa, 9 years old, wrote, "I am dreading my birthday this year. Because when I am 10, my mother can't stay with me when I am sick". Peter, 13, wrote: Just think of being really sick, like with a temperature of 100 (Celsius) (UGH!) and have to stay home alone!".*

Parents are reluctant to leave even a teenager with a high fever or e.g. a brain concussion. Norwegian children 0-6 years old have an average of 22 days of illness pr. year requiring bed-rest or reduced activity. Seven- to fifteen-year-olds have an average of 15 days per year. Both groups have an average of 12 visits to the health services, approx. four of these to see a physician. In 1985 22% of all children 0-6 years of age and 27% of the children 7-15 years old had some kind of long-term illness (over six months duration or expected long duration e.g. diabetes or cancer). Most common were skin diseases, and respiratory diseases (hay fever, allergies, respiratory infections) (NOS. Health Survey 1985, CBS in "Facts about Children in Norway" 1990).

Based on these averages, the Ombudsman proposed:

- Increase the number of days to the Swedish level, 60 days per year per child.
- Increase the number of days to 10 for each child for each parent (20 for single parents).
- With 10 (20) days per year, let parents take out this average across 12 years.
- Let the parents have leave on the basis of doctor's certification of the child's illness. (Some parents are declared ill when their child is ill, and their annual "allowance" has been used, at the discretion of the doctor).
- Sharing 20 days can only be done by married parents, so the Ombudsman suggested that fathers, even when not married to the child's mother, could have the right to share responsibility for a sick child.

The Ombudsman also suggested that one parent, when it is physically impossible for the other parent to take his/her 10 days, should be able to take over. This suggestion was opposed by the Ombudsperson for Equal Status for Women, who was afraid that only mothers would then stay with sick children, that employers would declare "physical impossibility" to keep men (but not women) at work.

Apart from the gradual increase in the number of weeks leave after the birth of a child and in flexibility, none of the suggestions have met with any success. On the contrary, one suggestion may have done more harm than good. A recent letter from the Health Directorate emphasizes that doctors are not permitted to declare a parent sick to enable him/her to care for a sick child.

2.1.3.2. *Children in parental separation*

Parents may separate even if they have not been married. Legislation and procedures are only gradually beginning to take this into account, e.g. in proposals dated 1988 for giving cohabiting parents the same tax-reductions that married parents get, and rules for disposal of common property (including housing) when cohabiting people move apart.

Complaints and questions about divorce procedures, child support payments, visitation, and custody came from unmarried as well as married parents, from other adults and from children. A very common misconception in adults as well as in children, and particularly striking to the young teenagers, was that at age twelve children can or even have to decide where they want to live after divorce. The 12-year age-limit set in the Parents and Children Act means, however, that younger children certainly can have an opinion and *can* be heard, but the opinion of the child over 12 years *must* be heard. This does not imply that the child can or has to make the decision, just that he or she has the right to have a say, to the relief of many youngsters.

Ombudsman proposals in this area developed over the years, as cases accumulated, and proposals from other sources appeared. The Parents and Children Act was adopted in 1982, so amendments could not be proposed until some experience had been gained. The Marriage Act was under revision, the commission being appointed before the Ombudsman was established.

Based on my experience in giving expert assistance to the courts in custody cases, and on professional statements sent to the Office as documents in other cases, the Ombudsman in 1981 suggested to the Ministry of Justice and the Ministry of Health and Social Affairs that rules be made for *when* professional help should be requested by the courts and child welfare boards and standards set for *how* such work should be done. The Ministry of Health and Social Affairs did not respond. The Ministry of Justice asked for the opinion of the county administrators and the Norwegian Association of Lawyers. In collaboration with the Norwegian Association of Psychologists, the Norwegian Psychiatric Association and the Association of Child Psychiatrists, and a group appointed in 1987 (I was the only "non-lawyer" member) a set of guidelines was established in 1988. When to call upon an expert was still left to the discretion of the judges, who vary a great deal in their willingness to use this kind of assistance. Also lists of available experts from the three professions were compiled, for distribution to parents and to the courts. The working group discussed ways of improving collaboration between professions and innovative ways of bringing in professionals, e.g. encouraging lawyers to establish a working relationship with local psychologists to help in the early stages of a divorce case, or encouraging judges to appoint psychologists/psychiatrists as "lay" judges when cases are brought to court. Thus professional knowledge and experience with children could be available in the court-room, without a total psychological investigation of the individual case in question.

The next Ombudsman proposal was that the children should have their own "lawyer" (not necessarily someone from the legal profession) or spokesperson in court. Since mother and father both have their lawyers/spokesmen in court, it seemed reasonable that the persons least able to speak on their own behalf should be represented, by a "child professional" or a lawyer. The legal profession insisted that the judges were the spokesmen of the children. Judges learn about children through practical experience, some are good, some definitely not. At least one court already has appointed a lawyer for the children in a case; so while it has not yet become routine procedure, the possibility has been established. The use of child experts as "lay" judges, or asking other professions to take over interviews with children (particularly those over 12 years of age), seems to be more acceptable to the judges, and should help ascertain consideration of the children's interests.

2.1.3.2.1. A better divorce for the children?

Parents in separation who can find good solutions for their children and who can cooperate after divorce create fewer problems for their offspring. To be able to find good solutions, parents must to a certain extent set aside their own wishes. It also helps to know what the important considerations are for children at various stages of development.

Even when separating parents agree and want to find solutions good for their children, the result may due to lack of knowledge, be more harmful than need be. A nursery school teacher called the Ombudsman. She felt that a two-year-old boy was being put under undue strain by going to two different nursery schools. His parents, wanting the child to spend equal time with mommy and daddy, each had the child two weeks. Every other week the child was sent by plane from the Southern to the Northern tip of Norway, changing his entire situation, and going to two different nursery schools. Informed of the strain that this might be for their child, these well-intentioned parents found a different solution less disruptive to the child's need for a more stable life.

Brief, useful information is not always readily available. Such information was totally lacking in the first edition of a booklet on "Separation and Divorce" sent by the Ministry of Justice to all couples seeking separation. In 1983 the Ombudsman prepared a chapter on "The interests of children" for the second edition, and proposed a separate booklet on the child-related issues. The Ministry of Justice appointed three people including me to prepare such a booklet, which appeared in 1987 and goes with the other one to every separating couple. This booklet is not, however, easily available to non-married parents. It should be made freely available through the social welfare offices in each municipality. Whether this has been done or not is unknown.

A further integration of ideas was presented in 1986, in the Ombudsman's statement regarding proposed amendments of the Marriage Act. The Ombudsman then suggested that compulsory counseling, based on "the best interests of the children", should replace the existing formal arbitration, done by a lay person appointed by the municipality. Experience indicates that these meetings are now rarely more than a mere formality. The Ombudsman suggested counseling by a professional team, including legal and child development experts. Cases have demonstrated how many parents, ignorant of the legal as well as the social implications of divorce, might barter away the rights of the child. "If I can keep the house, you can see the children", or "If I can't see the children, I won't pay maintenance". The professional group should also be available to couples if their arrangements turn out to be problematic, either because they were not well planned or because of changes in the situation.

The bill for the new Marriage Act had not been presented in 1989.[5] But the Ministry of Justice in the same year supported a pilot project in one county, where couples are offered the choice of "Child-centered counseling" in stead of the ordinary arbitration. Preliminary results indicate that 90% choose the new alternative and that the number of cases brought to court has been significantly reduced.

2.1.3.2.2. Child maintenance

The financial situation is a major difficulty of single parents, divorced or un-married. In spite of tax-reductions, higher child allowance and other support, single parents have a lower standard of housing and less net income per family member than any other type of family. The size of child maintenance payments very often turns out to be determined by the parent's (most often the father's) willingness to pay, not by the actual costs of bringing up children, even if the rules state that the child is supposed to have a standard of living proportional to the joint income of the parents. The amount may also be influenced by irrational factors (e.g. a wish for revenge) or by the more rational reasons of having a new spouse or family to support. (If the parent does not pay, a minimum amount is covered by public funds, see page 172-173).

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[5] The Bill is expected in June or July 1991.

The Ombudsman in 1983 pointed out that as long as the actual cost of bringing up children is doubtful, it may be difficult to set a minimal, but realistic, amount for child maintenance applicable to different situations, e.g. according to variations in costs in different parts of the country. It was therefore suggested that child rearing expenses be calculated. Until such dependable information was available, tables prepared by the Ministry of Justice for setting the maintenance amounts were unacceptable to the Ombudsman.

A pilot project in several counties later indicated that in most cases child maintenance would be increased, or stay unchanged, when the amount was based on a certain percentage of the gross income of the paying parent. This simplified system, supported by the Ombudsman, opposed by e.g. a fathers organization, is now used in the majority of cases.[6]

2.1.3.3. *The rights of children in the family*

When parents separate, arrangements for the children should be based on the best interests of the child. A consideration of children's emotional, social and cognitive level of maturity, and their need to *know* and *love* both parents, must therefore have an impact on the rules for visitation, shared parental responsibility and daily care. But while accepting that parents who can cooperate will create fewer problems for children, the Ombudsman objected to the use of coercion to secure the rights - based on the needs - of children. Proposals from an organization of fathers to legislate shared care (with the child living alternatively with either parent), forcing parents to live in the same neighbourhood, or fixing penalties (fines or prison) for parents who reneged on visitation did not seem to be good solutions. Counseling, to ensure cooperation within the framework of each couple's capacity, would be better. The cooperation of the parent with whom the child lives was already part of the total evaluation in decisions about where the child should live, as demonstrated by Supreme Court rulings. The benefit for the child of spending time with a very reluctant parent is dubious. Helping uncooperative parents understand that the right of the child is being infringed and their future relationship with the child jeopardized may be more helpful.

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[6] The percentage was set, finally, at 11% for one child, 15% for 2 children, and 18% for 3 children, the number of children to include **all** the children of the payee, and divided equally between them. If a father therefore has 2 children in his first marriage, 1 in his second, the mother of the first family will get 12% (not 15) of his gross income.

One suggestion from the fathers' organization did get the support of the Ombudsman: In the Parents and Children Act, the child's visitation rights depended on whether the parents had lived together after the child was born. Hypothetically the father might have moved out two days before the birth. The child would then have no legal right to see the father. If the father had waited two weeks, the child would have that right. The basis for the distinction was that the child might have been conceived by a man whom the mother did not wish to see again, a child born after rape or incest (in which case abortion would have been an alternative) or following a very flighty connection, or the man might have abused the woman during pregnancy. (In one example the woman, according to the man, had used the man; she did want a child, but not a father for the child). When the exception to the general rule was discussed in 1981, in the process of adopting the Parents and Children Act, it was upheld because these fathers did not deserve the right to see their children and the mothers should be protected. To the Ombudsman this was, however, not a question of the rights of fathers or mothers, but of the rights of children.

The Ombudsman, stating the need and therefore the right of every child to know both parents, did not find any good reason to deny these children this right. The Ombudsman pointed out that by denying the child a father, the mother was depriving the child in a way which should not be open to her, and she might be depriving the child and herself not only of an income (since many fathers pay more than the minimum child support), but also of the possibility of getting the practical and moral support which a father can provide. Nor would there be any reality-checking of the child's fantasies (good or bad) of what his or her absent parent was like. Knowing that a child would have the right to see its father, some women might consider more carefully whom they wished to father their child.

Nor was there any reason for difference between mothers. Women who had lived with the fathers might equally have been abused. The child might be conceived as a result of force (rape in marriage). Divorced women go to court to have the visitation rights tried, and these would, as demonstrated by Supreme Court, be denied or curtailed, if visitation was not in the best interests of the child. Women who had not lived with the child's father could also go to court, if the law was changed, whereas the fathers previously had to go to court to get the right to see the child if he had not lived with the mother.

If - as some feared - fathers got the right to see their children and turned up after years of absence, consideration of what would be in the best interest of the child (who perhaps now had a stepfather or was adopted) would always be the ultimate consideration in granting or denying visitation. Some also feared that the man might break into the home of the child, but of course this would not be allowed. If he had the right to see the child and this was denied by the mother, he would have to get a court order about how visitation should take place to enable him to see the child.

When the Ombudsman suggested an amendment of the Parents and Children Act on these grounds, the public debate was heated, and confused, mostly by people who did not distinguish between the rights of women, the rights of fathers and the rights of the child. The proposal was e.g. opposed by the "Single Mothers

Organization" and some Women's Rights groups. In the Storting members split across party lines, and the vote was close. But the amendment was accepted and went into force for children born after January 1, 1989. Children already born did not have the legal right, but gained a moral right to acquire visitation rights.

The Ombudsman also came across cases where the woman's husband was obviously and admittedly not the father of a child. The woman might be living with another man who accepted paternity and wanted to be the legal as well as the social and biological father. In spite of this, according to the "Pater Est"-rule, the woman's legal husband would still be the legal father of the child. On this basis the Ombudsman asked the Ministry of Justice to reconsider the strict interpretation of the "Pater Est", modifying it so that a man at least *could* acquire legal paternity in clear-cut cases like that described. This suggestion was still unresolved in May 1991. It would be considered in the on-going amendment-work of the Marriage Act.

2.1.3.4. *When can children cause changes?*

> *Jan, 8 years, had lived with his mother since his parents' divorce. Jan wanted to live with his father and had run away repeatedly. The father had gone to court a number of times, and could not afford to do so again. The courts had ruled that Jan's chances of seeing both parents were better if he stayed with mother. But when mother moved far from father, Jan could no longer visit his father. Could the Ombudsman help?*

Based on numerous such requests, the Ombudsman proposed a law amendment. If a child repeatedly had demonstrated a strong wish to live with "the other parent", the child should have the right - not to make the decision, but to ask the county to reevaluate the previous decision. The Ministry of Justice went along with the principle of the suggestion, proposing that the county, on the request of *one* (not both) parent, might reevaluate, if the child is at least 15 years old. This would not help Jan, who was only 10, but the amendment was passed by the Storting and was obviously as far as they would go at the present time. (In Jan's case the mother died, so Jan now lives with his father anyway).

> *Elizabeth's parents were getting divorced, but she said she had no right to see her father. She was right: her "father" was actually her step-father, who had married her mother when Elizabeth was 1 year old. Elizabeth, now 12 years old, had not had any contact with her biological father, but her step-father had never legally adopted her. The law only gives the child the right to visitation with legal parents.*

Other cases, particularly concerning grandparents, also indicated that children at times should have visitation rights in relation to other people than their parents. The Ombudsman suggested amending the Parents and Children Act making it possible to give a child visitation rights to e.g. a step-father, a solution which seemed reasonable in view of the increasing divorce - and remarriage - rates. The "Single Mothers Organization" opposed it: the Parents and Children Act should not be amended because of one child, one case. The Ministry of Justice got enough support to present a proposal to the Storting. Pointing out that the situation is common, the Storting, however, did not adopt the proposal. The law does not prevent private agreements, so the amendment should be unnecessary.

I am still concerned about children whose parents will not agree to an arrangement which could be in the best interest of the child. Grandparents and step-parents can be very important to the child. Divorce should not "divorce" the child from such relationships. This may happen when for example a mother will not let the child visit father's relatives.

My support for grandparents was more conditional when grandparents were acting as adoptive or foster-parents, e.g. after the death of parents. Children need a network of loving adults. By giving the grandparents the role of parents, the child is more or less deprived of one set of supporters. Also, even if grandparents may be ready to take responsibility for very young children, they may, ten years later, be reluctant to have responsibility for teenagers. So the question should be considered individually, not denied - nor accepted - without careful evaluation. Of course, if the grandparents are the only possible choice, the matter should be clear.

A different question, but related to divorce, was brought to the office by Knut, 16-17 years old. Young people in part-time jobs usually do not pay tax, if what they earn is under a certain limit. Child maintenance is taxed, added to mother's income, until the year the child is 16, when maintenance *can* be taxed on the child income. After 17 it must be on the child's income tax return. Knut pointed out that when child maintenance was added to his income, the total was above the tax-free limit, so he had to pay tax on all of his income. This seemed unfair. The Ombudsman suggested that the rules be changed, to allow children of divorced parents the same tax-free income as other youngsters. The suggestion had also been made by other groups, e.g. the Standing Committee on Social Welfare and Health, and was passed by the Storting in 1987.

2.1.3.5. *Conflicts close to home*

Conflicts with neighbors generally concern older children. Small children and their play are accepted, but once children grow out of the sandbox, neighbors have less tolerance for the noise and commotion children make. There is little understanding of e.g. children's inclination to play close to home. Surveys show that up to the age of 8 years, the radius of activity of a vast majority of children is less than 200 meters. Most 5-to-6-year-olds remain within 100 meters of their own front door. More than half of all 13-to-16-year-olds stay within 300 meters of their home when they are outside, in their local neighbourhood. (Kolbenstvedt and Strand 1978). Some of these conflicts, particularly those pertaining to poor

planning of housing areas, were handled under the heading "Children and planning", see page 299.
The examples illustrate the types of conflict involved.

A group of the children resented the new rules enforced in their cooperative housing area. They felt that the rules were unfair and humiliating to children:

1. Children are not allowed to scribble on the walls.
2. Children are not allowed to make noise in the corridors.
3. Children are not allowed to play inside the building, except in their own apartments.
4. Children are not allowed to hang around inside the building, outside other apartments.
5. Children are forbidden to play outside other entrances to the building than their own.
6. Children must not leave belongings outside. Such belongings will be placed in the garbage containers.
7. Children must not use tricycles, bicycles etc. on the pedestrian walks.
8. Children must not step on the grass or flower-beds.

The Ombudsman wrote to the board of the cooperative, asking whether all the things forbidden to children were allowed for adults. The hazards children were exposed to if the rules were upheld were pointed out, such as traffic accidents and disease (when looking for lost objects including shovels and pails in the garbage containers) and the illegal way of handling other people's property. The Ombudsman received no reply directly from the housing cooperative, but copies of complaints that had been sent to the Ministry of Consumer Affairs and Government Administration, the Ombudsman for Public Administration, and finally - after the complaints elsewhere had been turned down as unreasonable - to members of the Storting. The board of the housing cooperation also complained in the national magazine of the nation-wide housing cooperation organization, leading to a flood of "rules for our area"-letters to the Ombudsman, to check if the rules were "O.K. for children", evidence of an indirect effect which the Ombudsman actions might have. Needless to say, the rules for the housing cooperative that instigated the case were changed.

> *Tove and Mari, 10 years old, had built a tree-house on a vacant lot next door to their home. Neighbors, who did not own the lot, thought the house ugly and demanded it be removed, wanting the children to go farther afield with their projects. The children wanted to use it for meetings in their secret societies, rebuild it, and spend the nights there.*

Neither legislation regulating the rights of neighbors (e.g. asking for a tree casting shade to be felled or for fences to be put up) nor other legislation gave the neighbors any right to make such demands. The Ombudsman informed them of this and gave information about the needs of children in outdoor play. The children jubilantly reported that they were allowed to keep their house.

2.1.3.6. *Adoption and artificial insemination, two issues*

Amendments to the Adoption Act were proposed in 1983. The main change was that existing legal differences between adopted and biological children were removed, e.g. the possibility of revoking an adoption. Based on "the best interest of the child", the Ombudsman supported this view, only questioning a conflict that might arise between the interests of an adopted child and a biological child in the same family. If a couple adopted an elder child in order to circumvent their own child's right to inherit their property, the adoption date, not the birthdate, should in cases of conflict be decisive.

Leaving an opening for exceptions, the Ombudsman supported the view that single adults and homosexual couples should not be allowed to adopt. Norwegian children put up for adoption are so scarce, and foreign children have often been exposed to such difficulties, that there is no reason to espouse less than ideal conditions for these children. A father *and* a mother, as identification objects as well as caring adults, are ordinarily important for children.

The Ombudsman views on artificial insemination created some, but not very strong interest. The issue was whether or not the donors should still be anonymous. Sweden had abolished anonymity 2-3 years earlier. Some argued that children need to know their biological roots, compared with adoption, and said that the emotional problems of children born of German fathers during World War II, were caused by the lack of knowledge of the identity of the fathers. Others feared that the number of donors would go down if anonymity were cancelled and felt that it would be unreasonable to expect donors to accept a child "turning up on their doorstep", perhaps many years later. The Ombudsman stated that adoption is obvious, not preceded by pregnancy and in many cases with a child of a different race than the parents. The difficulties of the "War-children" can not be attributed solely to the fact that they did not know their fathers, because these children - and their mothers - were severely ostracized during and after the War. It might be correct that children born of artificial insemination really did want to know their biological roots, but the Ombudsman could not find research evidence to support or reject this view.

The proposal suggested that children should be able to get this information after age 18, but this should not apply to children already born. Therefore the Ombudsman suggested that the identities of donors might be secured, but "frozen" for 18 years. In the meantime Norwegians could find out from Sweden how many children actually wanted this information and what would happen to the number of potential donors. Other research on possible consequences of not knowing biological parenthood might also be carried out or collected from other parts of the world. The problem of living with a family secret would be resolved if the parents honestly told their child how conception had happened, but just as honestly could tell the child that they did not know who the donor was.

2.1.4. SUMMARY AND FURTHER QUESTIONS

Many of the questions about how parents function, the effects of different childrearing practices, the consequences of mother-child separations have been investigated in terms of effect on every aspect of child development. Reviews of research give evidence to the multitudes of problems which have been of interest. But societies and the roles of parents change. Many of the problems encountered by parents today are caused by a lack of proper understanding or a lack of will to counteract societal trends that parents cannot change or counteract on their own.

Also, the family itself is changing, not only in numbers, but the basis for marriage has lost some of the economical and social meaning of former times, while the expectations of emotional fulfillment and support have increased. Parents now have children to satisfy their own emotional needs: the need to have someone to care for, the need to feel necessary, the need for the role that having a child gives to parents in society. How do changes like these effect the children, how children are perceived? and treated? Much of the research on, for example, the effects of employment for mothers was been carried out before women joined the labour force to the degree they have today. We know little about whether or not this has led to greater father participation in relation to the children. If it has, there may be benefits for children of which we know little. Since parents who are happy with their own situation (whether they are both employed or not) are "better parents", it would be helpful to know how many mothers and fathers would prefer to stay at home with very small children if they could afford to do so.

Unemployment, poverty and membership in a subculture that accepts violence leads to an increase of violence between spouses and may be an additional reason for child abuse. This is one additional reason for seeing the situation of the family in relation to other factors of society. More research is needed to find in which key areas a minimum of help can give a maximum benefit, particularly in societies where economical resources are scarce.

The lack of supportive networks leads to a need for information to present and future parents. Perhaps information about child development could be given in the schools, from the age of 10 years. Children of this age remember a great deal about their own earlier years. Also information about children and alternatives of child rearing need time to mature, to be integrated in the personality, before parents can make their own choices about child rearing alternatives. It might be well to give information before the young person is under the strain of having a baby that cries all night, or before the young parent accumulates guilt about what may already have gone wrong.

A different avenue for information are the children themselves. How do children of different ages perceive their family situation? Recent research (Tiller 1983) in Norway seems to indicate that even preschool children have a much larger network of adults to whom they turn for help than their parents imagine or that their mothers fully accept. How children use adults, how they can organize their own networks is an exciting area for research, closely related to competence in young children and in resources for participation.

2.2. Child care and leisure time facilities

2.2.1. BASIC CONSIDERATIONS

Children's psychological and physical needs in relation to day-care change as they grow. As noted above (page 167) babies can relate to two or three adults, but particularly under one year of age, need stable relationships to these people. As the child reaches two to three years, tolerance for a larger variety of adults increases, particularly if there are a few stable ones all along. The needs of the child for space for exploratory play and gross motor experience increases, as does the need for social interaction with peers, in addition to interaction with adults to provide language stimulation.

As development proceeds, the need for space, play equipment, and peers increases. The basic social learning acquired amongst peers has been somewhat overlooked as long as every child had peers or siblings just a few years older and/or younger at home and in his neighbourhood. Now even preschool children with mothers at home can be "deprived" in families with one or two children and in neighbourhoods with families of this size. Such deprivation might eventually lead to a school readiness which is different from what it was two to three generations ago, because the first-graders (be they five, six or particularly seven years old) might not have the social learning experiences and thus the social skills school beginners had some 30 years ago.

2.2.1.1. *Research on the effects of day-care*

Research on the effects of day-care for young children can be difficult to compare and evaluate because the systems in different countries vary, different kinds of day-care (i.e. part-time and full day public institutions, day-care in private homes) are grouped without distinctions, and different age-groups are involved, e.g. because children start school at different ages in different countries. The quality (e.g. the child-adult ratio, space requirements) and goals of different day-care programs are not always described.

Based on surveys of studies available in 1977, Papalia & Olds (1981) emphasized that nearly all research had been done in high-quality, well-funded, university-based centers, while "most of the center care that children receive is run-of-the-mill or worse". Also the research reviewed yielded only short-term effects since follow-up studies did not exist. "So we know very little about day-care, compared to what we should know" (op. cit.). The value of kindergarten (age five to six) was "well accepted by both educators and the public" (op. cit.).

Much of the research referred to was, if not otherwise stated, carried out in the USA. The number of employed married women with children less than six years old increased from 12% in 1950 to 42% in 1980, 53% in 1987 (U.S. Department of Labor). Consequently research concerning the effects of day-care proliferated after the 1950s and other existing research which might shed light upon the issues was discussed in this context. E.g. studies that suggested that the effects of "maternal deprivation" were actually caused by an overall shortage of social and cognitive stimulation. Such research tended to lift guilt from the shoulders of employed mothers, but also pointed out the need for knowing what requirements should be fulfilled to provide good day-care. By the late 1980s a few longterm followup studies also became available.

In general, studies of the effects of day-care on infants' attachment to their mothers and on their cognitive development, sociability, and competence have shown no negative effects of separation from mothers if combined with high-quality day-care (Kagan et al. 1978; Rubinstein & Howes 1979). Attachment patterns of children under two years old were no different for children in day-care than for children raised only by their mothers. Both groups showed an overwhelming preference for their mothers, particularly when the children were tired or distressed, even though the day-care children formed attachments to the day-care staff (Kagan et al. 1978; Farran

& Ramey 1977). Kibbutz children, who spend 20 hours a day with their metapelet also show this preference (Fox 1977).

Studies of day-care and "home raised" children do not indicate major differences in social and emotional development between the groups (Rubinstein & Howes 1977; Andersson 1986). Children who begin day-care early are somewhat more likely to interact with peers in the preschool years (MacRae & Herbert-Jackson 1976; Belsky & Steinberg 1978).

As to effects on cognitive development, Belsky (quoted in Andersson 1990) indicated that if babies start day-care very early (before six months of age), particularly if the daily hours in care are long, they might suffer negative consequences. But Andersson (1986 and 1990) found that children entering day-care at an early age performed significantly better on cognitive tests and received more positive ratings from their teachers in terms of school achievement and social-personal attributes than children entering day-care at later ages and those in home care. "These findings are all the more remarkable given that infants who entered care prior to one year did so for at least 25 hours per week, and for that reason would be most at risk according to Belsky" (op. cit.). One explanation might be the high quality of Swedish day-care institutions. In poorly run or inadequately staffed centers, children may be unhappy and may suffer some developmental difficulties (Clarke-Stewart & Fein 1983).

One consequence of the questions raised about the connection between "maternal deprivation" and lack of social and cognitive stimulation was "Project Head Start" in the USA. The quality of the programs, organized by each community, differed widely. The first evaluations seemed to indicate that the project was not fulfilling its aims: helping poor children to overcome deficiencies of their home education so that they would enter school with skills as well developed as those of middle-class children. There were some immediate gains in IQ (which perhaps is a measure of verbal and mathematical skills and learning and little else, see page 57-60), but these seemed to disappear soon after the children entered elementary school (Cicirelli et al. 1969). A large follow-up study published in 1982 on effects of fourteen different programs similar to Head Start (Lazar & Darlington 1982) collected data on the children's performance in school and related factors. As summarized by Fischer & Lazarson (1984) "To almost everyone's surprise, *all* the early intervention programs had very positive long-term effects". The children in the programs did better in school, fewer had remedial classes, fewer failed a grade. This effect seemed greatest when the intervention took place by four years of age. The significant improvement in intellectual functioning as measured by intelligence tests seemed to disappear after the first three years of school but reappeared in high school. As adolescents the children felt more competent (in social relations as well as in relation to formal subject learning), fewer dropped out of high school, a higher number went on to college. Similar results were found by the Ypsilanti Preschool Project, where the "children" were followed until they were over twenty years old (Weikart et al. 1984). In addition the project children in this study were found to have less delinquency as measured by criminal records, a higher age for marriage and for having their first child than did the "non-project" children. These factors would seem to have more to do with interpersonal and intrapersonal competencies than with verbal and numerical learning.

For middle-class American children evaluation studies are less conclusive. Preschool experience seems to be positive, but not necessary. A child who has not attended preschool but comes from a stimulating home with neighbourhood friends and plenty of space to play will most likely do as well in first grade as a similar child who has gone to a preschool (according to Robinson et al. 1973). One increasing problem as mothers seek employment in the labour market, the number of children in each family drops and the number of available peers within a safe distance from home also goes down is that in many societies "a stimulating home with neighbourhood friends and plenty of (safe) space to play" is increasingly difficult to provide.

Results of Norwegian research comparing groups of children who have gone to nursery school and/or kindergarten with children who have not are debatable. Since overall coverage is low (see page 201-202) and children with special education needs are given priority, many groups have many children (up to 50%) who have difficulties of some kind. Research on the effects of preschools may show how the gap between children without special difficulties and children with special needs may narrow, but will hardly demonstrate differences between groups of "non-problem" children with or without preschool experience (Flekkøy 1988).

The question of requirements for a good quality day-care can become an important issue when funds for day-care are restricted. There is a clear relationship between quality and the number of children, number of adults and space, what we might call "child density". Reviews of available research (in Mussen, Conger & Kagan 1963; Evenshaug & Hallen 1973; Hoffmann & Hoffmann 1964) indicate that an increase of child density leads to a marked increase of aggression, frustration and conflicts between the children, less opportunity for constructive play and learning. Adults working in existing Norwegian institutions mention adequate space and sound-proofing as important factors, noise as a problem (Raundalen 1983; Blichfeldt 1983; Bergh et al. 1976; Solberg 1978). Cooperation and friendliness between children and between children and adults increase when indoor space is expanded, (Indregard 1975), and conflicts are reduced when the number of children per adult is decreased (Cederblad & Høøk 1980).

It is difficult to indicate how many children are "too many" in relation to available space. This depends on the kinds of activities the institution is planned for, e.g. whether most of the time is spent indoors or outdoors, whether the educational aims call for strict discipline (like Chinese centers do). In Scandinavian institutions small-group activity is considered important, so the space available (indoors, due to the climate) should accommodate a variety of possibilities for simultaneous groups of two to four children, to encourage language learning and problem-solving competence (Silva 1984; Silva et al. 1980; Silva et al. 1976, Bruner 1983). This flexible use of space is one reason for better quality of education when the institution is located in buildings planned for this purpose than in e.g. elementary school classrooms (Vislie et al. 1984, personal com.). Small numbers of children interacting with a small number of adults increase quality in American preschools, whereas adding adults to a large group does not have any impact on quality (Abt Associates 1978). Also, trained teachers have more sick leave (Cederblad & Høøk 1980) and more frequently leave their profession when groups are large, particularly when the number of adults is relatively small (Pedersen & Pettersen 1983; Bastiansen & Bjørndal 1984). A high turnover can lead to reduced concentration amongst the children, and particularly the youngest children may react with anxiety to frequent break-ups of relationships with the adults, a few even developing "nursery school phobia". Also the quality of parent-teacher collaboration can deteriorate (Pedersen & Pettersen 1983).

Young school-age children also need adult supervision outside of school hours, particularly when school hours are brief and when both parents work. There is, therefore, a direct relationship between the school hours, the economic situation of families, working hours for adults, public transportation and the need for leisure-time institutions for school-age children. They can manage periods on their own, and need time for unsupervised child-directed activity. But many hours on their own, specially in areas with very few children, can easily lead to undesirable behaviour, simply because of the lack of guidance from adults or older children. Research on day-care for children in this age group has been impossible to find, even if the first one was established in Denmark in 1804 (Sigsgaard 1979). Public institutions of this kind exist in Denmark and Norway, but not in other countries. We can assume that the many considerations concerning adequate day-care for younger children, tailored to suit the needs of school children should be applicable to this type of day-care.

2.2.2. THE EXISTING PRESCHOOL SYSTEM IN NORWAY

There are no mandatory municipal responsibilities in this area, with the exception that municipalities must have a program for establishing and running nursery schools, kindergartens and other day-care facilities. The municipalities are not, however, obliged to carry out these plans. Education is not compulsory until age seven. The Nursery School and Kindergarten Act regulates requirements for preschools with public funding. The Municipal Health Act can be applied to prevent physical neglect of children cared for in other people's private homes. Small children can play under supervision three or four hours during the day in public parks, the so-called "Park-Aunt"-system, until 1982 regulated by the Nursery School and Kindergarten Act.[1] The quality of private care and education of preschool children is not controlled by law, if no more than five children under three years of age or ten children over three years of age are in the group. If the group consists of six or more children under three or 11 or more children over three years of age, 20 hours or more per week, and the caregiver is paid, that person is required by law to get public license of facilities and conditions. A trained preschool teacher is required for eight or more children below three years, 16 or more children three to seven years old.

Thirty-one per cent of all Norwegian children under seven years of age have some kind of preschool opportunity.

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[1] With the amendments in 1982, the park-aunt-system was removed, to be regulated by new rules. A proposal was circulated in 1986, but has later been shelved by the Ministry, which refers to the rules valid before 1982 when asked for information about regulations.

Table 21. Available nursery school/kindergartens (1987).

Age-group	Coverage	30 hours or more per week per cent of available places
0-1 years	4%	89%
2-3 years	23%	66%
4-5 years	48%	47%
6-7 years	64%	35%

Fifteen per cent of all preschool children (350.000) have preschool hours corresponding to 6 hours per day, 5 days a week. The percentage of six-years-olds with a "full day" is lower than it is for younger children, while the percentage of the age-group that has some kind of preschool opportunity is higher.

The coverage percentage was 8,6% in 1976. In spite of increase, it is low compared to our neighbors, 56% in Sweden, 55% in Denmark, and 41% in Finland. (See page 199-200). The opening hours of nursery schools and kindergartens vary from municipality to municipality. Fifty-five per cent of all nursery schools and kindergartens are open 30 hours per week or less, 11% of all children go to institutions that are open 41 hours per week or more. Very few therefore have hours covering the working hours of a mother or father in a full-time job.

Nursery schools and kindergartens may be public, semi-private or private. The municipality can have a "Kindergarten Board" under either the social or the school administration. In any case the school system must cover the costs of special education provided for preschool children, whether this is provided in nursery schools, kindergartens or elsewhere.

Private child care is common, but hard to estimate. Many arrangements are private in the sense that the employee (caregiver) does not pay taxes, nor does she get labor market entitlements. As the number of working mothers has increased, the number of private caregivers has also increased. But the number of potential caregivers is not infinite: As more women join the labor market in other jobs/profeassions, the number remaining at home to care for their own and other children will decrease. At some point there may well be a shortage of private caregivers, since so many women are employed elsewhere, as can be seen, for example, already in Oslo.

Supervision or care for school children, within or outside the school system, is not regulated, although free-time care is mentioned in the Child Welfare Act. Of the 317.228 seven-to-twelve year-olds (1987), 5.713 get this opportunity, while 50-70.000 children need daily out-of-school supervision, 140-170.000 need care regularly, but not every day. Three per cent of children aged seven to ten years go to so-called "free-time homes" or "leisure-time institutions", led, for example, by a preschool teacher or recreation leader. ("Facts about Children in Norway" 1990). Children in this age group go to school 16-20 hours per week.

Preschools and "leisure-time institutions" are administrated nationally by the Ministry of Consumer Affairs and Government Administration.

2.2.3. PROBLEMS, COMPLAINTS AND CONCERNS

Closely connected with organization of family life, family economy, perhaps even with family planning, this Ombudsman problem area focuses on day-care possibilities for preschool children and leisure-time public institutions for children of school age.

Problems connected with combining care and early education of children with parental work outside the home dominate this area of complaints to the Ombudsman. Care of children outside school hours and public free-time activities (or the lack of them) for school-age and teen-age youngsters were also categorized under this heading.

The number of complaints was fairly stable over the years. The increase (from 1987 to 1988) was not due to new problems, but "more of the same", namely problems due to the lack of preschool opportunities or the way existing places were distributed amongst applicants.

Table 22. Problems raised in problem area "Child care and public leisure facilities".

	1982	1983	1984	1985	1986	1987	1988	1989
Preschools	51	46	55	46	42	48	65	56
Park"aunts"/ private day-care	6	6	5	7	3	1	3	5
Free-time inst. for schoolchildren	1	5	4	1	2	3	-	1
Clubs and other leisure-time fac.	7	6	5	16	8	7	6	1
Other	0	0	0	0	0	3	4	11
Total	65	63	69	70	55	59	78	74

In 1989 "Other" was classified as "General" (2), "Play areas outside housing area" (2), "Mainstreaming" (2) and "Miscellaneous" (5).

The numbers of complaints did not, in our view, reflect the actual situation, because it was clear from other sources (e.g. the numbers of applications for places which were turned down, combined with reports of parents who did not apply, in spite of need) that many more than 10% of the adults were troubled by the lack of nursery schools and kindergartens for children. The complaints were under 10% of the total of adult complaints, under 5% of the children's complaints, except in 1985.

The low number of complaints from children is understandable, these children being mostly of preschool age.

Table 23. Distribution of cases, children compared with adults.

Year	Total all cases			Total problem area				
	T	A	C	T	A*	%	C**	%
1982	763	621	142	65	58	9,3	7	4,9
1983	830	727	103	63	59	8,1	4	3,9
1984	820	726	94	69	65	8,6	4	4,3
1985	798	727	71	70	65	8,9	5	7,0
1986	855	766	79	55	52	6,8	3	3,8
1987	877	719	78	59	58	7,3	1	1,3
1988	961	896	65	78	76	8,5	2	3,1
1989	1004	908	96	74	72	8,0	2	2,1

* **Number of adult complaints in problem area, percentage of annual number of adult complaints.**

** **Number of children's complaints in problem area, percentage of annual total of children's complaints.**

Many of the complaints from children were clearly connected with municipal budget-cuts, closing down or reducing hours in publicly funded clubs for children. Others, however, pointed to problems where small means could remedy a situation.

> *Peter, (ten) wanted to have the neighbourhood football-field watered to make a skating-rink. He was told to phone the local park-authority, but to let the Office know what happened. When nothing happened, a call from the Ombudsman put sufficient pressure on the authorities to have the field watered.*
>
> *Ane (eight) complained that the adults and big boys were using the entire skating area for ice-hockey, not the smaller rink close to it. She wanted a sign put up, so the smaller children (and the*

bigger ones not interested in ice-hockey) could get the larger part of the area. Again, a telephone-call from the Ombudsman to the responsible authority was necessary to get results. (In both of these cases parents had not carried enough weight to initiate action).

2.2.3.1. Nursery schools and kindergartens

There was little that could be done about the lack of nursery schools and kindergartens in the individual case. The issues of general interest (e.g. concerning coverage and/or content or quality of preschools) were handled through hearing statements or more general opinions. Individual complaints were handled by contacting municipal authorities. As mentioned above, many complaints concerned the lack of preschools and differences between municipalities in the rules for accepting applications and the cost for parents. The National budget has a special budget which covers approx. 30% of the expenses for running municipal preschools. The remaining expenses are covered by the local budget and the parents, e.g. split on a 50-50 basis, but parental cost may also be graded according to income level. Parents with very low income (e.g. many single mothers) can get a place free, but the level set for such benefits also varies from municipality to municipality. In all such cases, the Ombudsman would ask for municipal preschool plans for establishing and running preschools and for the reasoning behind their rules, criticizing when grounds were found. In one municipality the parental cost was set so high that it more than covered the expenses, apart from the national contribution, making the preschool a source of income for the municipality. In another case the municipality had not considered the costs involved if the preschools, as suggested, were all closed. Apart from making the mistake of including the national subsidy in the local income budget, closing would mean providing special care and education in other, more expensive ways (e.g. boarding institutions) for a number of children, and loss of income-tax income from not only the mothers (and the fathers, who would then be in a lower total-family-income bracket), but also from the preschool staff (who would be out of work, perhaps even be entitled to unemployment benefits). According to the calculations of the Ombudsman, in this municipality the expenses would then be higher than the expenses for running the preschools. This was pointed out to the local politicians, who decided to keep the preschools open, reducing the staff and the hours somewhat.

Children with special education needs are to be given priority in preschools, if the child can benefit from the opportunity. Particularly after 1985, when the national funding of special education for these children was no longer "earmarked", the following type of complaint began to appear:

> *Eric's mother reported that Eric, age 4, who had a malignant tumour in his stomach, had been denied a place in the local kindergarten. Turning to the kindergarten administration, the Ombudsman was told that "apart from the lump in his tummy, Eric is described as a perfectly normal child, - he has no special need for kindergarten". A letter from the Ombudsman, with a copy to Eric's mother (suggesting that she take it to the local newspaper) changed that decision.*
>
> *Anne, 4 years old, and practically deaf, was denied kindergarten. Her speech therapist recommended kindergarten, saying that she would also need a speech therapist with her 3 days a week. The local authority said that they could provide a young un-trained girl to help, but could not afford speech therapy. The experts insisted, - and the local authority denied her kindergarten, since "she will not be able to benefit from the opportunity" - as provided by the municipality. In Anne's case no amount of pressure helped, the municipality insisted that there simply was not enough money to pay for what Anne needed. However, a compromise was found: Anne did go to kindergarten, and her teacher there was given extra supervision so she could understand Anne's efforts to speak.*

Cases like these uncovered an issue of more general concern: the Kindergarten Act does not state the child's right to the education the child needs, but leaves a loophole through which the municipality can slip their responsibility, when authorities are unwilling to provide the extras needed so the child *can* benefit.

Most of the main issues handled by the Office were connected with Ministry proposed amendments to current legislation, reported here chronologically. The Council of State of 1981-86 proposed that all preschools should be based on and teach the Lutheran Protestant religion, like the schools, since Norway has a Lutheran State Church. In grade-school, parents may require alternatives, take their child out of class during religious instruction or let the child join "ethical instruction classes", often held for children from different grades together. The Ombudsman objected to this amendment, mainly because:

- children under 7 years of age may experience conflicting loyalties when the teaching at home and in the preschool differs, while more mature children can tolerate and understand that adults may have different opinions and faith.
- parents cannot choose to take their child out of the group, since religious education is not given in "class".
- parents cannot, with the paucity of available nursery schools and kindergartens, choose a preschool of their own faith, but must take what they can get.
- the number of parents of other faiths is increasing with the number of immigrants coming to Norway. Preschools have a high proportion of these children, since not being able to speak Norwegian may be considered a special need for preschool opportunity.

Accepting and respecting that Lutheran morals, traditions, and values are prevalent in the Norwegian society, the Ombudsman concluded that religious education of preschool children should be the responsibility of the parents.

This opinion was questioned in the Storting. A member of the Christian Democratic Party (Kåre Kristiansen) asked if the Ombudsman was not obliged to be loyal to the Council of State. The Minister replied that the Ombudsman was not so obliged, and that the purpose of the Ombudsman Office was to have an autonomous office critical to any part of the Administration. However, she hoped that the Ombudsman in future would base her opinions on factual knowledge, as she said.[2]

The question also had other repercussions. A group of psychologists publicly accused me of distorting research and spreading false information (religious instruction in the preschools would be harmful) to Norwegian parents. If the accusation were true, it would be a breach of the ethical standards of the Norwegian Association of Psychologists. The group was unwilling to file a complaint to the Ethics Committee of the NAP, so I filed a complaint against myself, and was cleared by the Association.

The amendment was passed by the Storting: all preschool institutions receiving public support are based on the Lutheran faith, with the possibility for establishing institutions with extended religious goals (allowing for questioning applicants for jobs about their faith) or institutions connected with other faiths.

The Ombudsman on this occasion also demanded that standards for the outdoor play areas be included in the Act. The space "suitable for 40 children" would not have been approved by the Ministry of Agriculture as suitable for the captivity of two bears. The space required for all kinds of animals, except caged hens, was larger per individual than the space suggested as adequate for preschool children.

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[2] The implication that the reasons for opposing the proposal might not be professional, can be understood. The State Secretary had been Acting Mayor of the municipal Council where I was a member of the opposition when - 2 years earlier - the question of religious education in the municipal preschools was discussed. I had then also opposed the proposal, on professional grounds, but as a politician. The fact that the same arguments were used in 1982 might have been misunderstood as political arguments, while the truth was that the reasons were professional on both occasions.

The Ombudsman supported suggestions for rules on minimal staffing and for including the "park-aunt"-system in the Act. There was, however, some fear in 1982 that a minimal staffing would be considered a maximum, leading to reductions where staffing was higher, so the minimal staffing rules were not included in the Ministry proposal to the Storting. The need for rules to prevent reduction of staffing became increasingly evident, particularly when the Council of State in 1987 proposed new amendments of the Act, to increase the numbers of children per group and reduce indoor space requirements, with the aim of augmenting the use of existing preschools. Lower standards would increase the capacity of preschools, a greater number of children could then attend, but then a preschool of a lower quality.

It was the opinion of the Ombudsman that a reduction of the quality was unacceptable, and that providing preschools should be made mandatory in the municipalities. The Ombudsman emphasized that no member of the Storting, in the debates of 1982 and 1984, had indicated that the quality of existing preschools must suffer in order to increase the number of available places. Good preschool experience is a good investment. Norwegian profits might not be as high as indicated by Weikert et al. (1989) in the Ypsilanti Preschool Project (High Scope).[3] However, High Scope preschools had a better, and therefore more expensive staffing (two trained teachers on duty at all times) than Norwegian preschools (one trained teacher per group). There was no reason to believe that a

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[3] Ypsilanti Michigan "High Scope" Pre-school Programme, which indicated that in the long run (20 years) the cost of a good preschool would be returned 5-7 times, due to less need for special education, unemployment benefits and criminal expenses for children who had attended the preschool, as compared to those who had not. (Weikart 1989)

Norwegian investigation of this kind would not prove that Norwegian preschools could also be profitable.

The Ombudsman strongly emphasized the "new" needs for preschool experience, arising from the changing family (with few children), the changing conditions of the family (with so many working mothers), and the changing conditions for children, e.g. with the rapid increase of traffic and dangers for play outdoors. And the requirements for high-quality nursery schools and kindergartens were pointed out (see page 199-200).

Arguments from proponents, stressing the need for more capacity, compared preschools to schools: "When one elementary school teacher can handle 25 pupils, 18 preschool children could hardly need more that 2 adults". Such comparisons were unacceptable to the Ombudsman for the following reasons:

- The average number of pupils in the elementary school classes was under 20 in 1986 and the ratio between children and adults (not including non-teacher staff members) was 1:10.
- Classes have older children and age-similar groups, not mixing 7 years age-span (or an even larger *developmental* span) as is done in preschools.
- Preschool groups may include as many as 50% with special education needs. An ordinary school class of 20 pupils rarely has more than five pupils with such needs.
- Cost was hardly an argument either, preschools costing exactly the same per child per year as secondary school (no suggestion was made to lower the number of teachers in secondary school, but this might be possible if the availability and quality of preschools were improved, so that all children had acquired better working and learning habits by the time they entered school).

The Ombudsman also suggested that the Planning and Building Act should be amended so that all new establishments of business or public institutions must include financing the number of preschool places needed by the staff of the business. This idea was supported by the National Employers Association, but nobody else.

In spite of opposition - and not only from the Ombudsman (the Ministry proposal in 1985 got support from fewer than 10 sources, (municipalities, counties, unions were among the hearing institutions), opposition from hundreds) - the proposals were presented to and passed by the Storting with hardly any discussion.

The hearing statements of the Ombudsman were widely circulated, e.g. to all municipalities, partly because of the research data and sources cited. A number of municipalities, free to make their own decisions, decided *not* to change local regulations to conform with the new national standards, thereby deciding not to reduce the quality of their preschools. In other municipalities the preschool teachers took the new rules to court. While losing their case they did get the court's support in their claim that these rules could only be enforced if the children did not suffer. The ombudsman was called as professional witness in this case.

2.2.3.2. *Private day-care*

One consequence of the lack of nursery schools and kindergartens is the pressure on the private care market. Most of the caretakers are conscientious, but neglect or abuse does occur, and the possible control mechanisms were practically useless.

Cases concerning private child care had principle interest and legal repercussions. One adult reported that the curtains of a private house in her neighbourhood were drawn all day and that no children were seen outside, in spite of the fact that small children were brought there daily. Another complainant was a mother whose child, two or three years old, was increasingly unhappy in the mornings and increasingly sleepy in the afternoons. Parents were not allowed inside this (other) caregiver's house. In both cases the Ombudsman notified the local health and social welfare authorities, who found that the children were given tranquilizers on arrival, had nothing to play with (tearing the wall paper off the walls in the absence of other activities), were not taken out of their snowsuits, nor changed, during the day. Both "institutions" were closed, in accordance with the Municipal Health Act, which can be invoked in cases of serious physical neglect.

When the neglect is more psychological in nature, however, this legislation was of no use. Other legislation which could be applied did not exist. One woman who took care of 16-20 children under age two, without help, was reported to the local child welfare office. She claimed acquaintance with the ombudsman as one "qualification", having met her on a local radio program the year before (when the ombudsman had given her the Kindergarten Act, with the rules for public approbation). The local authorities alerted the ombudsman, since she was mentioned specifically and I used my right to unannounced investigation (Act, §4). The lady, stating that she "only" had nine children there, actually had 15 (not including her own eight-year-old), there were three beds for naps, cups were passed from child to child, and facilities were poor in general. She had passed herself off as a psychologist, telling parents that she did not pick up children who cried because she was giving them "psychological training", particularly "independence training".

The local authority ordered her to stop this activity, with reference to the Child Welfare Act, but the woman would not follow this order, and the Child Welfare office had no means by which to enforce it, except by taking the case to court. The Child Welfare Board could only handle cases of individual children, and none of the parents were willing to voluntarily expose themselves to the investigation of their home and family conditions thus required. The lady then sued the authority for breaking into her house without a warrant. The case would later be brought to court, but led to an amendment proposal of the preschool legislation from the Ombudsman, which would authorize local authorities to stop illegal, harmful activities of this kind, if need be by fining the person in question at least as much as she was being paid (in this case N.kr. 3.000,- per child per month, or N.kr. 48.000,-, equivalent to U.S.$ 8.000,- per month, tax-free).

2.2.3.3. *Age for school beginners*

Six-year-olds were also of special concern in connection with the discussion of lowering the age for school beginners. In 1981 the proposal was made, but then implying that the curriculum for six-year-olds should be the same as the current curriculum for seven-year-olds, and that then 9 years of compulsory school would end at age 15. The age of entering the last phase of secondary school (now approximately sixteen) or university was not discussed.

Increasing unemployment for the young, particularly seen in relation to Labour Act restrictions for youngsters under 16 years of age, was one reason for closing this discussion fairly quickly. The question of the six-year-olds still remained, however, and a public report was circulated in 1985. According to the Ombudsman the question of whether six-year-olds should go to schools or in kindergartens (often with different administrations and budgets) was less important than the curriculum they were to be offered and by whom. Looking at the needs (for day-care as well as the emotional, intellectual and social needs) of this age-group and the training of teachers, I found however that the kindergarten at that time would be the better choice. The need for a closer cooperation between the kindergartens and the school system was emphasized; in 1988 the Ombudsman suggested that the Ministry of Education and the local school boards should be responsible for all education from birth to age 19. Expanding the training of grade-school teachers to increase their knowledge of preschool children and the training of preschool teachers for the seven to ten year group would facilitate moving from one system to the other, for children as well as for the teachers. This suggestion was repeated by a public committee on teachers' training in 1988. Including six-year-olds in the school system, with two to three hours per day in school would increase the demands for leisure time institutions, and also bring 50.000 more immature pedestrians on to the roads, increasing the need for safety measures and/or transportation. The issue has still not been clarified. A longer school day for the seven- to ten-year-olds has been given priority.[4]

2.2.3.4. *Public free time activities for children and young people*

"Junior" clubs (open to school age children some afternoons a week), "Youth" clubs and public playgrounds with adult supervision can be established by the municipalities. As mentioned above (page 204) children's complaints often had to do with reduction of opening hours or staff of such facilities. By 1981 very few supervised playgrounds still existed. The increase in complaints in 1985 coincided with the new funding system for municipalities (see page 315). This type of facility seemed to be the first to go, seemed to have less importance than other initiatives for children and young people. And there was little the Ombudsman could do to help. No research was available to provide evidence of importance or of what would happen as a consequence of closing, even though some thought this would lead to more destructive behaviour, particularly on the part of adolescents. Future developments might give grounds for closer evaluation, sporadic episodes might indicate a possible avenue for improved understanding:

> *A reporter called the Ombudsman to ask why juvenile delinquency, particularly amongst ten year olds was increasing. Groups of children had been caught stealing,*

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[4] In June 1991 a proposal was made which seems to have the support of the Storting: to offer six-year-olds a voluntary school year. This would, it was said, liberate 25.000 preschool places for younger children. Since only half of the 50.000 six-year-olds now go to preschools, hypothetically *no* places would be made available, if the school offer is used by the children who do not go to preschools. If, on the other hand, *all* six-years-olds go to school, there would be more places for younger children. But since the hours in school are shorter than the daily hours in preschools, school would probably then have to be compulsory.

looting and breaking in, on municipal building lots.

It turned out that they were building play houses, with materials (including window frames) they borrowed on the lots. I asked whether the children had any other place where they could "legally" build houses. When the answer was "no" my opinion was that the crime was *against* the children, not *by* the children.

One municipality - I was told - had closed all their clubs. One year later it turned out that the number of young people who had been questioned by the police for loitering, public disturbance, or destructive actions (e.g. breaking shop windows) had gone up by 50%, causing a major increase in police expenses (These are covered by national funds). So the municipality opened its clubs again, and the "juvenile misdemeanors" again went down to "normal" levels. I was unable to substantiate this story, but it is hard to believe that it was pure fantasy.

2.2.4. ISSUES WHICH NEED CONSIDERATION

When - some time in the future - e.g. Norway has a school beginner age of five or six years and preschools for all children under school age, it might very well be possible to reduce the number of adults from two to three to two per group of fifteen children. When this happens the proportion of children with special needs or difficulties will invariably go down. In France 30 children and two adults is not unusual, but the coverage there is 100% for four- and five-year-olds, 93% for three-year-olds. In China groups of 40 children have one adult, but the activities of the preschool are much more disciplined and aimed at the entire group than is the case in Scandinavian preschools. These examples illustrate the need to look more closely at the connections between "child density" and the program and goals of preschools. If opportunities to develop interpersonal, motor, and spatial competence are not provided elsewhere, free play in preschools is important. Then there must be sufficient space and equipment available which is not needed if practically all activity is carried out by children sitting at desks (as in China).

There is also a need to evaluate how existing resources can be used more effectively. In settings where nursery schools and kindergartens seem to be too expensive, new ways of using staff members might be an alternative. Does a "High Scope" project have to have two trained teachers per group or would a different way of using the trained teachers in relation to non-trained teachers have given the same results? In other words, can less expensive preschools be provided without reduction of quality? This would be particularly important in the building phase of a national (or local) preschool programme aimed at providing opportunities for all children. Perhaps fulltime preschools could/should have days devided between "care time" and "educational time"? (As one kindergarten teacher put it: Assistants can learn to help children get into rubber boots in just as educational a way as a teacher can). Could secondary school students planning to train as workers in institutions for children spend part of their school days or weeks helping in existing institutions?

A different issue is what really happens when children and young people are denied "places to meet". Can they take over the responsibility for running clubs themselves? Under which conditions?

Both of the latter issues have to do with faith in the competence of children (preschool as well as school age) and teenagers. It seems that e.g. some preschool institutions are in the danger of being overloaded with adults, turning them into "service institutions" for children. In such cases children are deprived of opportunities to take on *real* responsibilities. To illustrate this point with an example from my experience as a teacher: In an institution with twenty children age three to six years, I was the only trained adult, with periodically an untrained assistant. The children *had to* share the work. "Setting the table" was done by turns, two children each day. It involved getting plates and cups (the right numbers) from the kitchen, setting the table (one plate for each cup). If the numbers did not match the number of people, more had to be fetched or the superfluous removed. No one could eat until the table was ready. In an other institution "setting the table" was "done" by one child, who after the teacher had brought the right numbers of cups and plates and set the plates, would put one cup beside each plate.

The possibilities for learning something about groups, about numbers and about a process with a beginning and an end had been lost.

2.3. School problems

2.3.1. BASIC CONSIDERATIONS

There seems to be little need for research on the effects of going to school parallel to the research on day-care and nursery schools and kindergartens, where the problem under scrutiny is whether or not children *should* go. On the contrary, it is generally accepted that school age children need to go to school, to acquire knowledge and skills they cannot get at home. School (even half-a-year or a year) can have a strong effect on the cognitive abilities of the child (Stevenson 1982; Cole & Scribner 1974; Scribner & Cole 1981). Comparing schooled and unschooled children, the schooled children had constructed a general rule of solution for problems which the unschooled children had not acquired. Formal schooling gives students general techniques for processing information that can be used in different contexts. School is a good setting for children who are eager to learn, glad to acquire new skills, thrive on responsibility, at a stage where rules and learning how rules are made are of prime interest. (Piaget and Inhelder 1969; Kohlberg 1968). The skills include reading and writing, and the use of language as a tool of communication. *Basic concepts* are expected to have been acquired in the pre-school years. In small families, and particularly when television is expected to substitute for *social* language learning or when experimental play possibilities have been seriously limited, children may come to school without basic concepts or even the words for ordinary things around them. (Norwegian teachers, personal communication 1987). In addition to the basic learning skills, children need facts and other information. But perhaps even more important in times when what is necessary information changes quickly, children may need knowledge about where to find and how to use whatever information they might need in the future. In addition to this, children need to learn social skills suitable for a world which is changing fast and is increasingly cross-cultural: tolerance, flexibility, creativeness, responsibility for others as well as for themselves. They need to know how a democracy works and how each individual can have an impact on the smaller or wider environment in which they live. This means that intrapersonal competence gains in importance. Much of this learning happens in the society of children, which is also provided in the school setting as well as in leisure-time activities. Some of it is rough, or negative, for example bullying. Olweus (1984) has found how involving children themselves and making teachers aware of the problem can reduce such behaviour. One important message to the children was that "telling was not tattling", and that the bully needed as much help as the victim.

What a school or a classroom should be, how different teaching methods lead to different learning effects has been the object of much research. In this context, however, this research will not be included, because the problems raised concerning school, did not concern these matters.

2.3.2. THE SCHOOL SYSTEM

Compulsory school starts in August of the year in which the child is seven years old. Children born after January 1 of the following year may apply to start early, while children born within the year may apply to postpone school entrance. The latter is rare after the 1979 revision of the School Act, which emphasizes that all children, including slow developers or children with disabilities, shall have an education suited to their abilities, in the ordinary schools, if at all possible.[1]

Elementary school has six grades. Starting with 16 hours per week, school hours increase yearly, to 30 in grade six. All children between the ages of 13 and 16 years go to secondary school, either combined elementary/secondary schools or secondary schools for a larger district. In the final two years of compulsory school the students are given some choice of subjects, the variety of choice depending to some degree on the size of the school and its number of teachers. The majority of young people over 16 years have three years of further voluntary secondary school, either theoretical or vocational. Both kinds have a variety of choices amongst clusters of subjects, the more theoretical leading to entrance examinations for the university level. Students can switch from one type of school to the other if a place is available and the difference between first and second choice is not very large.

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[1] Some of these children however, have their "first school year" in kindergarten, which may cause problems when the child is 16. The question is financial and may be a definition-problem. The child has the right to 9 years of "school". If the child has had one year in kindergarten, does the child then have the right to 9 years *in school* or does the child forfeit the right 8 years after starting first grade?

The total number of schoolchildren was 593.767 in 1979, expected to decrease to 475.787 in year 2000. In 1987 505.942 pupils went to 3.500 different schools, 2.331 elementary grade-schools, 678 combined elementary and secondary schools and 491 schools for age 13-16. 172.195 16-19 year-olds were in the second phase of secondary school. 2.078 children went to special education schools, mostly schools for children with very severe behavior or learning problems. 87 such schools had a total of 510 classes, the majority of pupils 9-17 years of age. 11.639 children had a non-Norwegian language, approx. 36% received mother-tongue education in 1987 (54% in 1983) (NOS Educational Statistics, Primary and lower secondary schools 1988, CBS and Number of pupils in upper secondary school in 1987/88, National Council for Upper Secondary Education in "Facts about Children in Norway" 1990).

The number of children in school is expected to drop by 20% in the next 10 years. (NOS Population projections, regional figures 1985-2050, CBS in "Facts about Children in Norway" 1990). In elementary school the average number of children per class in 1987 was 17,9, in secondary school 22,7, in secondary vocational school 12-15, in secondary theoretical schools (university preparatory) 27-30 students. In elementary/secondary schools 70% of the teachers, 10% of the principals were women, 1/3 of the teachers worked part-

time (op. cit.).
Compulsory schools are administrated by the municipal school board, the non-compulsory secondary schools by county-level school boards. On the national level both are administrated by the Ministry of Education. Post-secondary education (including teachers colleges) belongs under the Ministry of Cultural and Scientific Affairs.

2.3.3. COMPLAINTS, CONTENTS AND CONSEQUENCES

No child complained to the Ombudsman of the curriculum, and the adults very rarely did so. Individual complaints often concerned conflicts between children, or between child and teacher. The number of complaints about school issues remained relatively stable over the years.

Table 24. Problems raised in problem area "School problems".

	1982	1983	1984	1985	1986	1987	1988	1989
Municipal school-plans, closing schools or classes	13	23	17	19	16	17	29	26
Transportation, safety on way to school	22	15	11	18	23	32	32	
Physical conditions in school/ playground	7	7	12	9	14	10	6	
Curriculum	14	15	20	8	5	4	3	
Bullying, staffing, other inter-personal conflicts	30	41	49	51	41	36	32	
Mainstreaming	16	17	9	6	5	8	9	
General problems, school legislation, rights	0	10	4	4	7	6	11	
Miscellaneous	0	9	14	13	18	17	5	
Total	102	137	136	128	129	130	127	137

In 1989 the following classification was used:	
General	0
School-plans	26
Elementary school	89
Mainstreaming	6
Secondary school	4
Special education	9
School psychology system	3
Miscellaneous	0
Total	137

The distribution between various issues shifted. Problems and opinions concerning organization of the school day (hours, free or to-be-paid-for activities after school, the relative importance of different subjects) peaked in 1984, when new proposals for curriculum frameworks were presented by the Ministry of Education. Making an opinion or discontent known seemed more important before the new plans were final, while a "now let's wait and see how it works" seemed more common afterwards.

Concern about closing schools or cutting down the number of classes varies a bit, reflecting the financial situation in the municipalities. Local authorities are obliged to run schools for all children, but there are no standard rules, except the maximum number of children per class and the minimum number of hours per child per year. During the past 30 years the total time spent in school has been reduced, mostly by cutting the length of each "hour" from 55 minutes (when present-day parents went to school) to 40 or 45 minutes. Saturdays are no longer school days, leading one Norwegian statistician to say that "present day children have 1½ year less schooling than their parents had, but on the other hand can enjoy having the same books, even the same copies!". Indeed, many complaints concerned out-dated, lacking or worn out school material. Parents were frustrated, wanting to help with homework. Methods have changed, so what they once learned cannot easily be transferred. The books are too old to tell "how to do it", the teacher explained it in a different way (not available at home).

Difficulties with local funding affected transportation. Until 1985 local authorities covered the cost of transportation. Transferring pupils to other schools involved an increase in transportation costs, sometimes high enough to prevent closing a school. After 1985 the county covers the cost of transportation if the distance is more than 4 km. (2,5 miles). When a municipality closes a school, the children may need transportation, the expense is covered by the county budget. In this way distance can become an incentive to closing a school. The problems of municipal school plans and transportation must therefore be seen together and in relation to this redistribution of expenses. Also, some of the complaints on staffing must be seen in this connection, since closing schools or redistributing pupils between classes may mean that a class loses a teacher. Other reasons for this lie in the rules for employment, because teachers who have been employed for many years will have priority to vacant positions, replacing, for example, a teacher employed for the duration when the older teacher has had leave of absence, thus causing a change in teachers. (Unlike the U.S. system a Norwegian class may have the same home-room teacher for at least four, often six years of elementary school and a new teacher for the following three years of secondary school).

2.3.3.1. *Complaints from children*

School is one area in which children are as concerned as adults - and no wonder, since the children are the largest group of people in the school system, and a very eloquent group at that.

Table 25. Complaints from children.

Year	Total all cases			Total problem area				
	T	A	C	T	A*	%	C**	%
1982	763	621	142	102	73	11,7	29	20,4
1983	830	727	103	137	114	15,7	23	24,5
1984	820	726	94	136	106	14,6	30	31,9
1985	798	727	71	128	113	15,5	15	21,1
1986	855	766	79	129	116	15,1	13	16,5
1987	877	719	78	130	115	16,0	15	19,2
1988	961	896	65	127	112	12,5	15	23,1
1989	1004	908	96	137	116	12,8	21	21,9

* Number of adult complaints in problem area, percentage of total annual number of adult complaints.

** Number of children's complaints in problem area, percentage of total annual number of children's complaints.

Children's complaints relating to the school situation range from 16,5% to nearly 25% of the annual total of children's complaints, while adult complaints on the same issue comprise 11,7-15,7% of the adult complaints.

Children's complaints also span a wider variety than adults', and are particularly numerous where conflicts with adults are concerned. The adults (teachers) in the school system complain to the Norwegian Teachers' Association; children complain to the Ombudsman. (But the NTA and the Ombudsman agreed on many of the basic causes for the conditions leading to complaints, for example, the lack of funds which would increase special assistance for children who need it).

Children have an everyday first hand knowledge about this segment of society, and they - at least in Norway - have no way (and no wish) to avoid it. Quite a few of the children's complaints led to issues of principle interest, for example, why the Protection of Workers Act applied to adults, but not to children, how cases with pupils as the subject could be treated with less respect for the prevailing rules for public handling of cases than adult cases, why children themselves could be treated in ways unthinkable where adults were concerned, and other examples of unreasonable lack of equal rights or lack of respect of dignity regardless of age.

Individual complaints may reflect more common problems and attitudes, but should not be interpreted to reflect general attitudes or methods of teachers in Norway. The number of complaints (an average of 110 per year from adults, 15-20 from children), as compared to the number of children (approximately 500.000) in school, is very low.

2.3.3.2. *Municipal school plans*

Declining numbers of children, combined with financial difficulties in the municipalities led to many proposals for closing schools. Many municipalities also built new schools, but these positive developments did not reach the Ombudsman.

When the Ombudsman supported the children and/or parents, the opinion often pointed to the need for having a school close by, because children use the facilities for free time activities. If the children need to take a long bus ride to get to school, they would be unable to participate in group activities organized in the early evening (such as band practice, sports groups, scout meetings). The immaturity of children in traffic must also be considered. There might, however, be advantages in combining schools: the total number of children might allow for smaller classes (since a group of more than 28 pupils can be split into two classes, 27 must remain as one class). But in that case a larger number of class rooms and teachers are necessary, so the financial gain might not be sufficient to warrant moving the pupils. Another possible advantage for the 13- to 16-year-olds is that the number of possible subject choices can increase with the number of teachers. Obviously there were often local factors in the whole analysis; thus the Ombudsman would always mention the lack of such intimate knowledge in making a statement, pointing out the various aspects that needed consideration and emphasizing that the needs of the children must be the main guideline for decisions.

At times the information received was incomplete, sometimes giving an impression that the needs of children were being used for other causes. In one such case a group of children wrote to complain that their school would be closed down. They dreaded moving to another school, partly because of the distance, partly because a highway ran between their home area and the school. The Ombudsman very rarely could inspect cases personally; but on this occasion a visit to the area was necessary for other purposes. The children had neglected to tell the Office that they had two pedestrian bridges and three tunnels by which to cross the highway safely, and also, since their "old" school lacked a music-room, a kitchen for home economics, and a gym, they were going to the "new" school for these classes at least twice a week anyway.

In cases where the Ombudsman did not support the children, the reply, in order to protect the children, was not sent to the local authority, but to the plaintiffs, unless local authority expressly asked for a copy. Parents, enraged by the lack of support, sometimes complained to the local newspaper, which mostly seemed to do more harm to their cause than good.

In most of these cases the outcome was unknown to the Office. When a decision to close a school was altered, it was difficult to tell how important the support of the Ombudsman had been, because hardly any other threat led to such a total collaboration between teachers, parents and children or such a level of local activity.

Carl was 13. In his municipality the Council had decided to

> *build a new school for the 13- to 16-year-olds, near the isolated area where they lived. To reach the old school the bus took a road where landslides had killed several people. The municipality then decided* not *to build the new school. Parents appealed to the Ministry of Education, which had told the municipality to build the school, to no effect. Carl wanted to know if the Ombudsman could help, but since the parents had then gone to court, the Ombudsman could not give an opinion (Inst. §7). The parents won the case, but still did not get the school. The municipal Council instead re-defined the school catchment areas, so that the area in question, after the new decision, belonged within the area of the neighboring school.*
>
> *Carl and his friends pointed out a consequence of the campaign that the parents had not thought of. In telling the children how dangerous the road to school was, the children were very frightened indeed, but not for themselves - the school bus only passed the landslide area twice a day - but for their parents,* each of whom *drove the same stretch of road at least twice a day, to get to work or to shop.*

Complaints of these types were so numerous and time-consuming that the Office declined to handle more of them in 1986-88, but would send copies of previous statements to the plaintiffs. (See inst. §5).

2.3.3.3. *Transportation, safety*

Transportation problems became an important issue even in 1982 and increased yearly, particularly in connection with the redistribution of responsibility for funding. In 1982 the problem was connected with letting even small children live at (or near) school during the week, coming home for week-end visits. The needs for contact with their parents seemed less important than the expenses involved, but the municipality in one such case, after the intervention of the Ombudsman, reconsidered and decided to pay for daily transportation. In other cases distance made this impossible.

In 1982 the Ombudsman demanded that transportation should be the right of the child because the child has the right - and the duty - to go to school. Getting there should not jeopardize the child. Transportation should be free when:

- the distance to school is at least 2,5 miles;
- transportation by boat is required;
- walking to school is dangerous, because of traffic or due to climate conditions (snow narrows many roads dangerously during winter and daylight may be only 3-4 hours);
- the child has a handicap necessitating transportation;
- or there are other special conditions to consider (e.g. truancy).

This proposal did not lead to changes. In 1983-84 two members of the Advisory Panel of the Ombudsman on my initiative, carried out an investigation in two counties, on children's experiences of transportation. The main results indicated that 25.000 children daily have problems connected with transportation: headaches, nausea or vomiting, symptoms lasting well into the school hours (and for a similar period when they got home) for at least a third of them. Many children, particularly the smaller ones with short school hours, had to wait for long periods of time to get the bus back home, since public bus routes were used for schoolchildren. Twenty-five per cent of all Norwegian schoolchildren needed transportation every day, living more than 2,5 miles from school. (Earlier investigations nation-wide had shown that a third of all parents were afraid when their children were on the way to school).

The report was published in 1985 and circulated to all county school authorities. Copies were frequently requested, particularly when municipal or county budgets contained proposals to reduce available transportation. The Ombudsman did not get reports on the outcome of these cases.

In 1986 a new aspect of the transportation problem came up. To save money the counties were demanding that three children share a double seat in the busses. With their school bags there was obviously not enough space for three children, so 30% of the children stood in the aisles, greatly increasing the danger of accidents. The Ombudsman soon gained support from the Ministry of Education for changing this rule, but all attempts to get the Ministries of Transportation and Local Government and Labour to comply failed. A new angle was tried in 1988, after a serious accident had led to the deaths of half a bus load of Swedish children. After that accident seat belts were required for tourist-busses (since the accident happened on a scenic route much used for tourists), and the Ombudsman required seat belts for at least the front half of school-busses. Such a rule would also make it impossible for three children to share two seats. But, perhaps for that reason, the new suggestion was unsuccessful, at least until I left the office in 1989.

Opinions on transportation were repeated in all hearing statements touching schools during the years of 1982-89.

2.3.3.4. *Physical working conditions*

Physical conditions for children may concern conditions within the school property or the location of the school itself. Two girls told us that a waste incinerator was being planned next to their school (reminding us of the kindergarten planned between a waste disposal plant and a housing area "since the smell makes this area inhabitable for people"). In other cases highways were built straight across school playgrounds, paths for bicycles and pedestrians were lost when the road was rebuilt or expanded and traffic-lights, crossing bridges or tunnels were not built as planned. Such complaints were, however, handled as "Children and planning" problems.

Other complaints concerned buildings where the plaster fell off the walls, where asbestos was discovered in the building materials or where the sewer or water system froze in winter. Since all such conditions are unhealthy, these complaints were generally referred to the local health authorities by the Ombudsman or by the plaintiff on the advice of the Office. Children would have no problem getting the adults to complain on their own or on the children's behalf. Difficulties did arise, however, when the conditions affected the children, but did not concern the adults, at least not strongly enough. In 1982 some children complained of a classroom with tropical heat, starting when the sun came back in March. One teacher obviously enjoyed hot house temperatures, but others had tried for several years to get shading or air-conditioning. The school was located practically on top of a main road with very heavy traffic. If the windows were opened, the children could not hear a word. Since the case had been handled by every municipal authority available, the Ombudsman sent the complaint to the Ministry of Local Government and Labor, going straight to the top of the bureaucracy. The case was the first illustration that while the employees (teachers) can complain, using the Protection of Workers Act, no such legal grounds for complaints exist for children, even though the children are more numerous and no less sensitive to working conditions than the adults are.

The difficulty in finding some authority responsible for conditions which might be threatening children's lives was demonstrated by a school located near a chemical plant producing poisonous gasses. A spill or leak of the gas would be so dangerous that the municipality had denied permission for building a harbor for small private boats in the area, farther from the plant than the school was located. The problem of planning for action if such an accident occurred had been presented to the local police, the Commission for Protection of Workers, the county school authorities, the local school board, the local health authorities and the Ministry of Education. The Ministry had asked the State Labor Condition Counsel, the State Explosives Commission, the Directorate for the Protection of Civilians (in war) and the State Control Board for Pollution for advice. The Ombudsman asked the Ministry for Local Government and Labour for help, but this was only the first step. The next ones, taken as each previous attempt seemed to lead nowhere, included the Storting, several Ministries and Directorates. In 1985 the Ministry of Education suggested that the Ministry of Environment order the factory to make such an action plan, with reference to the Pollution Act. This was the final solution, eight years and 19 authorities after the question was first raised, three years after the Ombudsman became involved. By then the municipal Council had decided to increase the number of pupils in the school by 50%, while still forbidding the building of the smallboat harbor.

Three boys in Tromsø in northern Norway told the Office that there had been plans to build a new wing to their school, connecting the main building and the building housing the swimmingpool. The plans were now threatened due to the expenses involved. Realizing the special needs for considering the climate in that part of the country, the Ombudsman turned to a climate expert, who pointed out that without the new wing, the playground would be impossible to use in cold weather. The wing would protect the playground and provide an "indoors-outdoors" area, in addition reducing the cost of heating the swimmingpool building. On the basis of the Ombudsman statement, the local authority decided to build the new wing. The case drew attention to the special requirements for playareas as well as buildings for children close to the North Pole.

These facts were later used in opinions about space requirements in kindergartens. In 1989 a national prize was awarded to a kindergarten built with larger indoor-outdoor space and a protected playground, without increasing the cost of the building.

A special problem area with regard to physical conditions concerns children with handicaps.

> *Peter, when his class left the elementary school, was told that he could not join his class in their new school. Peter, the victim of a progressive muscular disease, was a wheelchair user, and*

the school did not have the necessary lift. The local authority decided that installing a lift would be too expensive. The Ombudsman, pointing out the future need for a lift, asked the municipality to reconsider. When they did not, the story was, with Peter's permission, sent to the local newspapers. The Norwegian Association for the Handicapped reacted strongly, notifying the local authorities that a lift adequate for his use could be installed for less than five per cent of the calculated price. Then the lift was installed and Peter went to school with his classmates.

The Ombudsman asked the Ministry to investigate possibilities for helping to finance rebuilding of older schools to accommodate physically handicapped children and to circulate information on how best to do this.

2.3.3.5. *The needs of children, the school day, and the school year*

A total revision of the national guidelines for educational content in the compulsory schools (The "School Plan") was proposed.

Statistics showed that increasing numbers of children could no longer get preschool social experience at home, had both parents working and therefore needed more adult supervision and care outside the home, experienced familial split-ups, and were exposed to the information and attitudes learned through the mass media, often contradictory to the values and morals of parents and teachers. The Ombudsman criticized the plan for not taking these needs and situation of children sufficiently into account. Nor was there sufficient consideration of the children themselves as a very vital, dynamic element in the school, eager to learn, to cooperate, to share responsibility for each other and for the entire learning situation. This had been demonstrated time and time again by children who called the Office, and by the natural way many kindergarten children took their share of responsibility, gaining a very important feeling that they were in truth necessary, valuable elements of their society.

The Ombudsman pointed to the need for expanding the school day for children from the first grade and up, to five to six hours per day. Well aware that working hours for parents are often eight hours, the Ombudsman did not suggest an eight-hour day for children, but rather measures to enable parents to work flexibly, so that only one parent at a time was away outside the five to six hour school day. The family needs time to be together, as a family, and a longer school day might leave little time for family activities and a shared responsibility for family affairs, such as housework, leadership in free time activities (for the adults), participation for the youngsters, or for joint projects, for example in their neighborhoods. The Ombudsman emphasized the interrelationships between school system, labor market, free time activities, the needs for kindergartens and nursery schools, and the transportation systems, the inadequacy of the latter often leading to unwanted (and unnecessarily?) long periods of absence from the home for parents.

On the basis of these points of view the Ombudsman also participated in the public discussions of 1987 and 1988 on the possible expansion of the school day, insisting again that the needs and capabilities of children should be determining factors, not primarily the needs of adults or the labor market.

In 1984 the Ombudsman also raised the question of school vacations. Norwegian parents have three weeks summer holiday, schoolchildren eight or nine weeks. Children with divorced parents, spending three weeks with each parent, still have three weeks on their own, while other children may have five or six weeks holiday in addition to the time spent with parents. Some parents hardly have holiday time together, if they split up to cover the children's holiday. The problems are further complicated by the fact that many municipal leisure-time activities, like public pools, close during the three week "labor holiday" in July.

The Ombudsman did not at that time suggest a shorter summer vacation, but wanted to raise the issue, asking the Ministries of Education, Health and Social Affairs, Cultural and Scientific Affairs, and Consumer Affairs and Government Administration to consider the situation and see if the present solution was the best one. A pilot study, carried out for the Ombudsman by the Institute of Social Research, indicated that a surprising number of children (13%) did not spend vacation time with their parents at all, while the expected low number of children spent holiday time with grandparents and other relatives. Surprisingly few (8-10%) went to Scout camps, sports camps etc. An explanation may in part be that the survey was carried out in February, a long time after the last vacation and a long time before the next one. The whole question rested after 1985-86, due to the entire discussion of a longer school day, other activities within school hours, etc.

2.3.3.6. *Mainstreaming*

All children have the right to an education suited to their abilities and needs, preferably within the ordinary school system. A telephone survey by the Ombudsman to the county school authorities in 1983 disclosed that only half of the money needed for special help could be covered by the existing funds. The number of recommendations made by psychologists and special education teachers were much higher in some counties than in others, but closer questioning revealed that in the "low frequency" counties the specialists had been told not to apply for funds exceeding last year's budget. So they did not recommend or apply for more than half of the actual need. On these grounds the Ombudsman protested (to no avail) the proposed reduction of the national budget for this purpose in 1983, writing to the members of the Storting directly. In later years no special funds were allocated, the funds considered necessary being included in the general funds transferred from national to local levels.

In 1986 two cases of "special education neglect" were brought to court[2] by parents, partly to clarify whether the right to "enough" special help was unconditional, partly to clarify whether any administration had the right to cut such help while maintaining the standards for "ordinary" children. The court ruled that reduction of standards should not be done at the special expense of children with special needs, even if they must suffer the effects of general reductions, "as all children must".

2.3.3.7. *Do rules and rights for adults apply to children?*

In school children learn about society's values and system of justice. Schools, by example as well as by teaching, demonstrate society's views on general human and equal rights. Indirectly, the school communicates society's views on the value of children, as individuals, as a group and as "consumers" of the system within society which (in collaboration with parents) is responsible for developing the future adults of that society.

> *Inger, 10 years old, complained of a substitute teacher who had entered the class, the pupils silent and expectant, with the following remark: "You should all know how lucky you are that I am here, because I know very well that this class is so impossible that no one wants to substitute here". Later that day the teacher had filed a report to the principal, complaining that the class was unruly and uncooperative... For once no action was required, Inger just wanted to tell the Ombudsman the story, and she added triumphantly that the principal instead of reprimanding the class, had asked for an apology from the teacher.*
>
> *In Berit's case action was warranted. Berit (14), was accused, in class, of stealing, even after it had been proved that she was*

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[2] Gulating lagmannsrett is the appeal-court for lower courts in Western Norway. The parents sued the municipality of Stavanger, which was cleared by the court April 8, 1986.

not even in school on the day the theft had occurred. The Ombudsman contacted the teacher, who had denied the parents a meeting about the matter, and got his confirmation of the episode. The Ombudsman then suggested that an apology was due, in class, to which he agreed.

Knut's case caused a different kind of action. Knut, also 14, was blamed for the disappearance of a teacher's bunch of keys. When the keys were not found, the teacher went to the police, there being advised to drop the question at least temporarily, in the hope that the keys would turn up or the culprit confess (if there was one!). Instead the teacher took Knut and two or three of his classmates for interrogation at the police station, without warning the parents and against the advice of several of his colleagues. The staff split over the handling of this case. About half of the teachers threatened to leave the school, saying they did not want to work in a place where pupils were treated as inferior to adults.

Feeling that the rights of the pupils to fair treatment had been infringed upon, they filed a complaint in the county school board and asked for an opinion from the Ombudsman. The Ombudsman agreed, pointing out that ordinary rules for fair treatment apply to young people and that the teacher (and the police) had broken the rules for police investigation of minors. The school board, partly based on the opinion of the Ombudsman, criticized the handling of the case and demanded that the teachers, as a group of colleagues, find other ways of expressing and solving the interpersonal conflicts that had arisen during the case.

A group of 12-year-olds complained that after a conflict (also of suspected theft) the bell rang for fire-escape practice, and the class was told to go outdoors, without their warm clothes on. The teacher then told them that they would have to stay outside until the culprit had confessed - in minus 20 degrees Celsius. The class complained to the principal, who kept the entire class *after school as punishment for "opposition to the teacher". The children then turned to the Ombudsman, asking if group punishment was really legal, a difficult question. There is nothing in Norwegian law one way or the other. So this was actually a moral question, no less difficult, since group responsibility or group solidarity can be seen as a valuable social attitude. The Ombudsman suggested that the children perhaps could solve this issue on their own, 12-year-olds are very fair and do not lack ability for moral judgments. If they could put pressure on the culprit to return the stolen goods, perhaps the teachers would be willing to drop the issue. The next question was easier: Would the teachers all have been punished if one of them had been suspected of some misdemeanor? Asked if they wanted a written statement, the children turned down this offer, wanting to try to solve the conflict on their own. No further action was then possible nor advisable. (See Instructions §2).*

Eric, 13, was an unruly lad. A meeting held by the principal, with his teachers, the school psychologist and the school social counselor decided to move him to the other class on his level. But Eric did not want to move, so it was decided that he should be given a chance to improve during the following two months. The next day, however, when Eric came to school, his homeroom teacher immediately went to the principal and threatened to leave the school and not return until Eric was removed from her classroom. At this point Eric came to the Ombudsman, who as a first step advised a complaint to the local school board, on the grounds that rules for handling such cases had been broken. A complaint should also postpone carrying out the decision until the complaint had been investigated. The school authority, however, turned down the postponement, at which point the Ombudsman for Children asked the Ombudsman for Public Administration to consider the case and give an opinion also in regard to the question of whether rules for handling cases and complaints of adults should also apply to cases of minors.

> *While the Ombudsman for Public Administration did not believe that the outcome of the case would have been altered if the rules had been followed, the school's administration, the local school administration, and the local school board were criticized on several points for faulty handling of the case.*

Such statements of the Ombudsman for Public Administration carry a great deal of weight. Therefore, since the case also illustrated the lack of knowledge about the rights of pupils in the school system, the Ombudsman for Children asked the Ministry of Education to supply information about correct case handling in the Ministry's "Handbook for the Norwegian School". Eric, who in spite of the support received from two Ombudsmen, did not feel very welcome in his old school, asked for (and received) a transfer to a different school, not to another class, a solution that turned out to be a good one for him. The case was published in the Annual Report of the Ombudsman for Public Administration as well as in the annual report of the Ombudsman for Children.

Examples such as these demonstrate that within the school system children are treated in ways unthinkable or intolerable where adults are concerned. What boss, in working with an unknown group of employees, would expect cooperation if his opening statement expressed distrust of the group? Which group of adult employees would accept mass punishment on the mere suspicion that one of them had done something wrong? Would any adult stay in a situation, without even an apology, when publicly accused of a crime he had not committed?

Other complaints raised other issues of principle concern, for example, that the rights of adults could override the needs of children. Many complaints were similar to this one, from a fifth grade class:

> *"We have a teacher we like. She is the eleventh teacher we have had during the last 4 years, but she has been with us the whole year. And now we will lose her, because an old teacher we*

> *don't know is coming back. They say the old teacher has more right to a job than the new one. But we want to keep the one we have!".*

After consulting with the Norwegian Association of Teachers, the Ombudsman sent a general statement to the schools involved, pointing out that the well being of the pupils, particularly when they had been exposed to many changes, might be one of the "special circumstances" which according to the School Act allowed a school or school board to waive the "experience and age" rule.

> *Paul was 14. In a conflict with his teacher, his teacher forced him against a wall and held him, calling for assistance from another teacher. Paul got very angry and hit the teacher. The teacher then called the representative of the local labor protection committee. The Protection of Workers Act says that if there is a threat to the safety of employees, work may be stopped until the threat is removed. Paul was then defined as a threat, expelled from school, and work was resumed.*

The same procedure was followed when John, eight years old, threw a chair across the class room. Several similar complaints were made to the Office, from parents as well as from children. The Ombudsman raised the following questions: Who should represent the pupil? Could this law really be used to expel children, denying them their right to education and fair treatment and to the help they needed to treat the underlying reasons for their behavior problems? What if their behavior was really a reaction to a situation created by the teacher? Was it then fair to remove the child, and not the teacher? Why does the Norwegian School Act have a whole chapter on the rights of teachers, who in addition, as employees of the municipality, are protected by the "Protection of Workers Act", while no similar legislation exists for the children? The State Workers Protection Control, the Ministry of Local Government and Labor and the Ministry of Education in 1983 all answered that the law gave the school's elected representative the right to stop work in the classroom if a pupil threatened or physically assaulted a teacher.

The Ombudsman in 1984 again raised the issue with the Ministry of Education. Disciplinary problems must, the Ombudsman stated, be solved within the rules and legislation of the school system, with early help from the psychologists and other helpers, so that situations leading to this kind of conflict could be solved and prevented. The Ministry, late in 1984, maintained that while the Protection of Workers Act might be used in particularly difficult situations, the responsibility of the elected representative concerned the teachers only, while responsibility for the pupils must lie with the school principal. The elected representative therefore did not have the right to close schools for this kind of reason or to expel pupils.

This clarification, while important, caused reactions from the National Association of Teachers. The insufficiency of the clarification was demonstrated in 1985, when a group of pupils had a conflict with their teacher, the school feeling that the solution lay in "making the children behave". The pupils (and their parents) felt that the teacher's behavior was at least partly the cause of the conflict. The elected representative was involved to protect the interests of the teacher, even though no physical threat existed. The Ombudsman pointed out that with the use of the Workers Protection Act an entire school could be closed, and that this Act was not suited to solve interpersonal conflicts. The State Workers Protection Control then agreed: the Act could not be used to solve conflicts between employees or between employer and employee, but is aimed at the physical dangers of a working place.

The Ombudsman pointed out that pupils are not pieces of machinery, and that they have human rights that cannot be neglected. Behavior problems of a pupil may be a signal of a more complicated problem in the classroom, in which the attitudes and behavior of the teachers are important elements. Again the Ministry of Education and the Ministry of Local Government and Labor clarified, the Ministry of Education by stating categorically that the Protection of Workers Act could not and should not be used against or in a way harmful to pupils, the Act having no use at all in relation to pupils. The Ministry of Local Government and Labor stated that while the Act could in principle be used concerning issues relating to pupils' behavior in general, in no way could it be applied to the behavior of individual pupils, the problems with whom were to be solved within the rules and procedures of the school system. The respect for the integrity of each pupil cannot be set aside, even in the interest of protecting employees' (teachers') rights.

2.3.3.8. *Professional support in the school system*

The interpersonal conflicts and how to resolve them without infringing on the rights of the children caused the Ombudsman to raise the issue of the adequacy of the school-psychology and counseling services in the schools. I had been appointed leader of a public commission to evaluate this service some months before becoming ombudsman. The entire commission agreed on a demand for a structural system with psychological, educational and social expertise, to be able to give children, their families and the teachers the help needed. The majority (seven of the nine members) recommended a continued basis in the school system, since the School Act was the only legislation giving children the *right* to such professional help. The minority recommended incorporating the school counseling system in the municipal health and social welfare system.

In revising the School Act, however, no explicit demands for a multi-professional service were included. Many municipalities, to save money, cut down the number of professions. Others decentralized cooperative services (which by serving several municipalities could keep up the number of positions needed to secure the professions). The Ombudsman therefore insisted that the county school administration should be empowered to insist on a multi-professional service in any attempts to reorganize the service in one or more municipalities. This need not mean that all school-based services must have three professions, but that the different professions should be available to the schools, a step in the direction of the commission minority. This claim was incorporated in the regulations of the School Act and has turned out to be useful. The ombudsman has also pointed out that a better cooperation between the school, health and social welfare services may be achieved by incorporating the school system's professionals in a total municipal service, but that this should only be done if the new Social Services Act legislates the children's own right to professional help from psychologists, psychiatrists and social workers in addition to the special education teachers in the schools.

2.3.3.9. *More rights for children in school*

In 1984 the Ombudsman, on the background of the many school cases already seen wrote a general statement to the Ministry of Education concerning the children's situation in the School Act and in the schools. The national responsibility for securing equal (although not identical) education for all children was weakened because the financial responsibility was being transferred to the municipalities. Therefore control through legislation became increasingly important. But the School Act did not give the pupils clear rights. Some rights were made conditional, for example, the right to transportation or special education, which depended on local funding. In other connections rights are unclear. School rules differed from place to place, while the Penal Code clearly states the penalties for any kind of adult misdemeanor. What kind of punishment is used for what kinds of child misdemeanor varies, for example, expulsion. The Ombudsman in 1983 wrote a statement to the Ministry of Education, combining and comparing the psychological and legal aspects of expelling pupils. One of the conclusions was that expelling a pupil must be given individual consideration, because the effect would differ from child to child, depending on age as well as family and social situation. Even so, the Office did feel that reasons for expelling a pupil should have some similarity nationwide.

Even compulsory education might be denied some children, as illustrated by Kaia, 11 years old, who told us that in her school, the 10-11 year-olds did not get English lessons, although English is compulsory from 4. grade on. The municipality did not have the funds for a teacher.

2.3.3.10. *"It's not fair!" - or is it?*

Many children complained of perceived injustice because the school had different rules for children and adults. Teachers were allowed to smoke or enjoy sweets (e.g. throat lozenges) in school, forbidden for children. Children had to go outside during recess, even in cold so severe that carpenters were not allowed, by law, to work on outdoor jobs, but the teachers stayed indoors, "even though we are sure they could use some fresh air and some exercise too!" said the children.

Some of these problems were solved by the schools when the Ombudsman notified the school of the complaint. Teachers are generally reasonable. In other cases the Ombudsman asked the municipal authority to investigate the rules in the different schools, so that the differences between schools as well as between children and adults were at least minimized. A third group of complaints was answered by pointing out that there are differences between children and adults, and that some of the rules are actually good for the children, for example, the rule against smoking, or the rule some local communities had, forbidding schoolchildren to shop in school hours. This prohibition could have different reasons: that the children had "junk food" for lunch instead of the whole-wheat sandwiches from home, or that they did not come back to school in time for lessons. Crowding, making a great deal of noise or the suspicion of shop lifting were, however, not accepted as good reasons by the Ombudsman, since this would or should apply to adults as well. There were no grounds for discrimination on this account. Student councils very often managed to find out the reasons behind the rule, negotiate for change if the reasons were unacceptable or if change in behaviour (e.g. coming back to school in time) could help, and try to improve the understanding of the rest of the student body if the rules were reasonable.

2.3.4. PROBLEMS FOR FUTURE CONSIDERATION

2.3.4.1. *Competence and intelligence*

Discussions of the future school should concern the compentences children should be able to develop. Present curricula stress verbal and mathematical competence, while spatial, musical, bodily movement, interpersonal and intrapersonal compentencies seem less important. The whole organization of learning should be under focus, for example the question of teaching children as individuals or as groups, of children teaching children, of mixed or same-age groups. If competence grows in conjunction with other people, competence develops *with* other people. An emphasis on individual learning may be contraindicated in view of the fact that professional activity later is very rarely carried out alone. Cooperative action is the rule in most jobs and might become even more necessary in the future. Systems of children tutoring children, of mixing age groups, of supporting cooperative and shared learning might be reconsidered in view of the capabilities children will need as future adults. Employers and labour leaders are already emphasizing flexibility. cooperative ability, creativity and empathy as equally or more important that the knowledge of facts.

As outlined in relation to preschool education, a closer look at how to use other adults, supervised by trained teachers, might not only indicate a way of improving education, but also of bringing down costs, and thus make education more available to all children.

2.4. Children in uncommon circumstances

2.4.1. BASIC CONSIDERATIONS

2.4.1.1. *Basic definition*

The basic definition of this area included any child who does not have an ordinary home life or does not go to an ordinary school. This is an uncommonly comprehensive definition, including children with short-term as well as long-term "special needs", and children who are physically or mentally abused or neglected. (In spite of the increased awareness and high frequency of abuse, it is to be hoped that this is, after all, uncommon. The frequency in Norway is estimated to be the same as in other European countries, but the greater majority of children are not subjected to these kinds of treatment). The definition does not indicate if the uncommon circumstances of the child are beneficial or not. This group of problems in the Ombudsman Office therefore included individual complaints about foster homes, and other support measures initiated by child welfare boards, child abuse and corporal punishment, drug abuse, juvenile delinquency, and conditions in prisons and hospitals. More general issues concerned, for example, how the child welfare boards *should* function, health services for children, the *rights* of children in hospitals and prisons, the child's right to protection of integrity and security under the law.

Handicapped children were not defined as a separate group.

Handicapped children, or children with special needs for other reasons, were not singled out as a special group. All children can have special needs, for a short period or for life. When Karim arrives in Norway, he has a special need to learn Norwegian and may be considered temporarily handicapped in his relationship to other children until he learns to communicate. Marit is blind, a permanent disability, and will need special training throughout her childhood and adolescence, perhaps a special apartment when she grows up. The definition of a child with special needs can be difficult because the cut-off point between the handicapped and the non-handicapped is unclear and may depend on circumstances as well as on the degree of disability. A child with a visual disability may only need glasses, may need special lighting or other visual aids in the classroom, or may be practically blind. Whether or not the child is really handicapped may depend on whether or not these aids are available. *With* the aids the child may get on very well, without them the child is definitely handicapped.

All children should have the same right to have basic needs met, be the needs "normal" or not. So there is no logical reason to distinguish some children as more "special" than all the others. What *is* special is that problems a child has may require special measures, and that the lack of such measures may create additional difficulties for the child. Peter who uses a wheel chair, could not go to the same high school as his classmates from elementary school because the high school could not accommodate wheel chairs. Peter's social problem was caused by the external situation, and therefore was defined by the Ombudsman as a "School problem". When deaf Kari, in spite of the special right to preschool education of children with special education needs, was not admitted because of the cost of a special teacher, this created an extra problem for Kari and her family. But the problem was recorded as a "Child care" problem by the Ombudsman. (Preschools do not belong to the school system in Norway).

2.4.1.2. *Child welfare - Foster care*

Some families are unable to adequately satisfy the needs of their children, due to lack of emotional, social, financial or other resources. Attempts to provide the assistance they need to be able to function may fail. Then consideration of the needs of the child, for example, for a caring and stable family situation, should supercede the parents' wish to carry on their role as parents. Research on the effects of foster care shows that children who are placed early and remain in one home develop normally (Provence and Lipton 1962; Tizard 1977). Children who have been subjected to recurrent changes in foster homes or institutions seem to have difficulties of varying degrees, most typically problems in establishing close interpersonal relationships and in the development of impulse control (Bowlby 1969, 1973, 1980; Bender 1947). The effects of separation from parents depend on modifying factors, such as the age of the child when first placed (Gregory 1958) and the stability and quality of the substitute placement. As Rutter (1979) suggests, "children in well run children's homes have no impairment of general intelligence", adding "The lack of opportunity to form early emotional bonds to particular individuals constitutes the damaging factor. Children can cope with several caretakers, but they seem to suffer if they experience a large number of changing caretakers".

The evaluation of whether or not to remove a child from its family is a difficult one, including - as it must - the effect separation and moving will have on the child, effects that vary with the child's stage of development, available alternatives and the culture in which the child lives. But although these are difficult evaluations, the child should not for the sake of the parents, suffer needlessly or too long, making subsequent readjustment increasingly difficult. In some cases a child is placed in a foster home for a certain period, while assistance is given to the parents. The child is returned to the parents when they have "improved", but the added responsibility of caring for the child or other factors may lead to new family breakdown. The child is then removed once more, but can rarely return to the previous foster parents, who in the meantime may have a new foster child or are unwilling to resume the instability and insecurity involved with a "roving" child. This pattern may be repeated, as shown by Sandberg and Seip (1981) with increasing adjustment difficulties for the child and increasing problems in finding a foster home willing to take the responsibility for the child. These findings support previous research and conclusions that recurring changes reinforce or mitigate the initial trauma.

2.4.1.3. *Children in prison*

Some children run into difficulties, with drug abuse or delinquency, perhaps because they have been neglected, have not received adequate parental or other adult support in their environment or in school, or because the measures tried have not had the desired effect. A few of these children go to prison, even if treatment is what they need most. In prison, they are still young (in Norway down to age 14 until 1990), and treatment and conditions should be tailored to their needs. If they must be in an institution of this kind, it is plain common sense and pure justice to feel that deprivation of freedom should not lead to deprivation of the education, interpersonal contacts (e.g. with parents) or medical (including psychiatric) treatment they need.

2.4.1.4. *Children in hospital*

Some children spend brief or longer periods in hospital. Much of the research related to institutionalized children and the effects of separation from parents also applies to these children. In addition, being ill can be hard on a child. The psychological effects may include feelings of helplessness and increased dependency associated with illness, the threats to bodily integrity of medical and surgical procedures and if preventative measures are not planned, the added strain of being in a strange environment with unfamiliar people. The kinds and severity of reactions to hospitalization vary significantly with the age of the child, with for example, much stronger reactions in infants between seven and twelve months of age than in infant under seven months old (Schaffer & Callender 1959). For children under the age of three to four years, the reactions seemed to be primarily expressions of anxiety over separation from the parents, with initial anger and fear, withdrawal and somatic concommitants of anxiety. Regressive behaviour and activity disturbances were also noted. In children over four years of age, similar but less extreme reactions were found. Children over six years old seemed less anxious due to the separation. Rather, anxiety seemed to be more "free-floating" or was focused on potentially painful or frightening experiences in the hospital (Prugh et al. 1953). All of this research was conducted in hospitals where visiting hours for parents were very limited regardless of the age of the child and the nurses rotated. Prugh et al. (1953) also reported how such traumatic effects, which can last for a long time even after the child returns home (Robertson 1967), can be mitigated: Free visiting for parents, a special play program, careful preparation of children for diagnostic or terapeutic procedures, and assignment of one nurse on each shift with special responsibility for each individual child. It is interesting to note that some of these measures, such as contact with parents/family during hospitalization, are built into the situation in countries "less advanced" than many industrialized countries are.

2.4.1.5. *The effects of physical punishment*

Child rearing practices and consequences of parental disicpline, with corporal punishment as a major concern, have been the topic of a great deal of research. A review (Hoffman & Hoffman 1964) covers 80 pages (of which one half page discusses the effects of rewards, praise and reinforcements), another (Horowitz et al. 1975) 60 pages. Baldwin (1967) summed up the researh evidence: A consistent result in research on the consequences of different child rearing practices is that there is a connection between parental punishment and aggression in the child. The connection is such that punishment leads to increased aggression, particularly when the child is exposed to physical punishment.

B.F. Skinner, lecturing in Oslo in 1983 pointed out that punishment should not be used in bringing up children, in particular physical punishment, which may lead to a reduction of unwanted behaviour, but only in the situation in which this behaviour occurs. Punishment will control behaviour, but not the impulse leading to the act. Learning therefore is not generalized, which may explain why children who are harshly treated at home are, as a group, more aggressive than other children in school and on the playgrounds. A different reason might be the connection between the pain and humiliation the child is exposed to and the anger and aggression this may lead to. Also the child sees an example of an adult with whom he or she identifies acting aggressively. Parents who spank provide a "living example of the use of aggression at the very moment they are trying to teach the child not to be aggressive" (Sears, Maccoby & Levin 1957). In addition a child who is exposed to harsh punishment will often be more concerned about being discovered than about understanding the connections between behaviour and adult reactions.

The longterm effects of physical punishment do not depend upon antagonistic or aggressive parental attitudes towards the child, although it might be reasonable to believe that such parents will use harsh reactions more frequently than do other parents. However, different degrees or types of physical punishment may have different effects on children. Skard (1976) describes four classes:

1. The light slap to stop a small child's touching or taking something, which is unnecessary, probably does not harm the child, but does not do any good either.
2. The slap of exasperation, when the adult "explodes".
   For small children such explosions can be very frightening, particularly when they also experience the pain of being hit or shaken. They will run away from an angry adult, but when the storm is over, they see the adult they love "become normal", which is a relief, but also confusing. Such experiences should be very rare. Older children, who recognize the reaction and may provoke it in testing the limits of adult patience, will understand better, but still be hurt by the pain. And they need the apology of the parent, to confirm that such behaviour is not acceptable.
3. Spanking or beating a child "in cold blood".
   This is the abuse of adult power and physical superiority over a smaller person, even when done because the adult feels helpless, or believes that spanking is the only way to stop unwanted behaviour. Planned and executed under full adult control

spanking, with or without the use of an instrument, is not only painful, but extremely humiliating for the child. The selfcontrol should be used to find better ways of bringing up children.

4. Battering or totally uncontrolled physical violence.
The adult loses control and strikes or uses other means to physically damage a child. These adults definitely need help. So does the child.

2.4.2. THE NORWEGIAN HEALTH AND CHILD WELFARE SERVICES

2.4.2.1. *Health services*

Health services to children are available on several levels: On the municipal level Well Baby clinics offer prenatal care and postnatal check-ups, (including vaccinations), monthly at first, later with six month intervals until age two, then at three and four years. The clinics may offer help on family problems; a small number of municipalities have a psychologist for this purpose; others establish parent groups to discuss problems in general or special problem areas, for example, children's sleeping problems. Parents can bring their children to public health centers, or to certain doctors with a municipal licence who receive a standard remuneration for consultations, from the State Health Insurance System. Well Baby clinics and the service of municipal doctors are funded through the municipal budgets, and cost very little per consultation. The health service on this level may refer to the social welfare system or the school psychology service, which also has a responsibility for preschool children with special needs. Referrals may also be made to specialists or hospitals, which are county-based and funded.

The elected community Board of Health is responsible for sanitary and hygiene conditions, food control etc. The chief municipal M.D. is the secretary of the Board of Health.

2.4.2.2. *Social welfare, child welfare, child protection*

Each municipality has a public Social Welfare Office. It has a Health and Social Welfare Board, and may have a Child Welfare Board, if the latter is not incorporated in the former.[1] In 1988 about half the municipalities had separate Child Welfare Boards. The others had child welfare incorporated in the Health and Social Welfare Board's responsibility, based on the philosophy that child welfare is part of family welfare, so it is better to consider the family as an entity. The former, aware of experience in Sweden and Denmark, feared that under this system cases where the child is the primary concern might be given insufficient attention.

A Child Welfare Board must have at least five members, and an interest in children is required. According to the public "Child Abuse" committee, the Child Welfare Boards are low status political positions. Many members are not members of the municipal Council, although one member (often the chairperson) must also be a member of the Health and Social Welfare Board, but not therefore necessarily a member of the municipal Council.

The Board makes decisions regarding budgets, placements of children, aid to families beyond the minimal requirements of law. When the Board has to make a decision regarding placement of a child outside the family, without the consent of the parents, a judge must supplement the Board, thus making the decision more like a court decision. Appeals, by the parents or by the Board, may be made to the county authorities. When the county supports the municipal decision in disagreement with the parents, the parents may appeal to the Ministry of Health and Social Affairs or take the case to court. The Board may also appeal to the Ministry, but cannot take the case to court. If the Ministry so wishes, the Ministry may have a decision tried by the Supreme Court.

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[1] In 1985, in debating the structure of the elected Board system in the municipalities, the Storting did not mention the child welfare boards, but passed a law making, amongst others, the child welfare boards optional. Until the middle of the 1980s a separate child welfare board was compulsory, and the Standing Committee of Social Affairs in the Storting in 1983 unanimously expressed that this should continue. The Ministry of Social Affairs permitted "experimentation", allowing municipalities to organize child welfare in other ways.

The health services and social welfare system are administered on the day-to-day basis by the municipalities, while law and national regulations are administered by the Ministry of Health and Social Affairs.

In 1985, 9 out of every 1.000 Norwegian children were in some way clients of the child welfare system, the number increasing to 11 in 1988. In 1980, 3.530 new cases were recorded; in 1985 the number of new cases was 5.503, the total 13.309. The number for whom the child welfare system had taken over responsibility in 1985 was 6.303 (Grinde, 1989) which is lower, in absolute as well as relative numbers, than in any other Nordic country.

Most of the 13.000 children received help while living at home. Responsibility for the child was taken over by the child welfare system for 4 out of every 1.000 children on the national level, for 10 per 1.000 in Oslo (1986). Proposals for decisions to take responsibility from the parents *without parental consent* ("coercive action cases") were made in 1,5% of all cases, 4% of the cases in Oslo. (1984 annual report for the Oslo Bureau of Child Welfare in "Facts about Children in Norway" 1990).

The number of people on social welfare increased from 65.023 in 1981 to 125.361 in 1987 (NOS, Social Statistics 1981, 1983, 1985, 1987, CBS in "Facts about Children in Norway" 1990) reflecting an increase in the cost of housing, combined to some degree with an increase in unemployment.

2.4.2.3. *Holes in the safety-net*

Almost all children are regularly in contact with the municipal health services until the age of four years. Increased mobility loosens the bonds between families and system. Immigrant families are often ignorant of or reluctant to use the service. For both these reasons there is increasing concern about e.g. vaccination coverage. Also there is a gap in the health service safety-net between ages four and seven, a gap which may be widening as municipalities for financial reasons cut down on their services to the two-to-four year-olds.[2]

The main problem within the child welfare system is the number of reported cases left un-processed, due to lack of funds and people to help. Foster parents are e.g. hard to find, and the support they may need, particularly in caring for older children, is not forthcoming. Nor do foster parents have rights, e.g. to adopt a child they have had for many years and who has had no contact with the biological parents. Foster parents do not have the right to make a statement to, or the same right to appeal a decision made by, the child welfare board as parents have. Lack of case-workers is also evident in communities where jobs, permanent or temporary, are not filled. Some investigators (e.g. the Child Welfare Research Institute) have pointed to a possible lack of efficiency or effective use of available human and financial resources. The truth probably is a combination of many factors. And the child welfare system, constantly under fire, is also being revised, but the outcome of the revision is as yet not known.

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[2] According to a survey in 1985, children 0-6 years old are ill 22 days per year, 7-15 year olds 15 days. Children 0-15 years old have some contact with the health services 12 times a year, of which 3-5 are doctor consultations. ("Facts about Children in Norway" 1991)

2.4.3. CASES RECEIVED AT THE OMBUDSMAN OFFICE

The total number of complaints in this area rose, the 1983 number practically doubled by 1988. The number of cases reflecting dissatisfaction with the work of the child welfare boards and concerns of hospitalized children tripled from 1982-1988. The number of complaints of child abuse, substitute placements, the needs of minority groups and problems related to delinquency or police mistreatment and to children's rights in general in this area were stable. The exception in this general picture was the sharp increase in complaints concerning the situation of minority groups, particularly asylum-seekers in 1988. The trends reflect major problem areas highlighted by the Office at different periods, for instance, the proposals concerning corporal punishment in 1982, the situation for hospitalized children in 1986 and asylum-seeking children in 1987/88.

Table 26. Problems raised in problem area "Children in uncommon circumstances".

	1982	1983	1984	1985	1986	1987	1988
Child welfare/ protection-agencies' work	24	34	39	35	52	69	84
Child abuse, corporal punishment	41	31	30	34	37	35	44
Substitute placement, support contacts	22	21	21	22	17	10	14
Children with special needs	16	12	12	11	11	4	12
Minority groups	8	4	1	7	5	9	30
Drug abuse, delinquency relationship police	15	15	18	17	12	24	23
Hospitalized children	9	3	9	12	18	33	41
Adoption	0	7	4	4	1	4	1
Rights of children, general child protection	13	6	7	8	8	8	8
Miscellaneous	18	11	12	13	13	0	0
Total	166	144	153	163	174	196	257

In 1989 the following categories were used:	
General	3
Child welfare	193
Children with special needs	16
Language minorities	26
Children and health	41
Special problems	20
Miscellaneous	5
Total	304

Table 27. Distribution of cases, uncommon circumstances, children compared to adults.

Year	Total all cases			Total problem area				
	T	A	C	T	A*	%	C**	%
1982	763	621	142	166	153	24,6	13	9,2
1983	830	727	103	137	130	17,9	7	1,0
1984	820	726	94	153	145	20,0	8	8,5
1985	798	727	71	163	151	20,8	12	16,9
1986	855	766	79	174	162	21,2	12	16,9
1987	877	719	78	196	182	22,8	14	17,9
1988	961	896	65	257	265	29,6	12	18,8
1989	1004	908	96	304	284	31,3	20	20,8

* Number of adult complaints in problem-area and percentage of these complaints of total annual number of adult complaints.

** Number of children's complaints in area and the percentage of these to total of children's annual number of complaints.

The children were mostly concerned with their own rights, as practically all the complaints about rights came from children, comprising practically all children's complaints within this area (table 26 compared with table 27).
Many asked for information, commonly wanting to know whether or not spanking, slapping, or beating was legal. Only about 15% of the children's complaints were classified in this category, many of which might equally well have been categorized in the "Problems in the family" area. But when they concerned physical abuse, minor or major, the complaints were identified as belonging to this area.

Minor or major child abuse was the one type of family conflict which could not be referred to the parents. In cases of physical abuse, contact was often established between the child (with the child's consent, §2 of the Instructions) and some local service; a teacher, the school doctor or counselor or the local child welfare service, depending on whom the child felt comfortable with for help. The child might, after talking to the ombudsman, decide to go to a relative, a youth leader, older friend or teacher for support. Such initiatives were supported, with a suggestion that the child call back later if he or she wished.

Individual complaints might or might not give rise to further action, sometimes depending on whether the ombudsman agreed with the child.

> *Sara was 13 and lived in an institution for adolescents with behavior problems. She wanted to get married. Her boyfriend was 22 and his mother was willing to take responsibility for the girl. Sara had written to the King, with a copy sent to the Ombudsman, for special permission to marry. The King (his secretary) referred the problem to the Ombudsman, but Sara did not get the support she wanted. She must wait until she was 18, even if 5 years might seem like "for ever". The Ombudsman was not convinced that marriage at that age would help her with her emotional and behavioral problems.*

Kari, 6 years old, complained that her dentist was hurting her. Of course, many children feel that the dentist hurts, but this sounded different: by holding her so she had marks on her arms and jaw, pushing her hard into the chair, and throwing her mother out of the room. The mother was told that she could file a complaint with the county and ask for transferral to a different dentist. (Each child from the age of four ordinarily goes to the dentist connected with the local school). No further action was taken at that time. But after getting similar complaints concerning different dentists, the Ombudsman turned to the University Faculty of Dentistry, asking what kinds of training dentistry students received regarding the treatment of young children. The reply was satisfactory, the conclusion was that the faults were in the persons, not the system, so after having taken the problem one step up, no further action was taken.

2.4.3.1. *Young people in prison*

Ole was 13 when he raped a five-year-old, 14 when he was arraigned. Anders was 14, with a long history of car-thefts, petty stealing, truancy from school, and fights at home. Both boys were put in "adult" prisons, for "safe-keeping" while the cases were investigated. The police and prosecution feared that evidence might be destroyed or the crime repeated. Ole, obviously emotionally disturbed, was granted treatment in an institution of adolescent psychiatry, but had to "live" in the prison. And treatment was soon denied because "funds were not available for the extra police needed as escorts". Anders, to move him out of the "unhealthy" conditions in prison, was moved to a psychiatric institution for senile schizophrenics. Both boys complained: They were denied their right to an education and visits from their relatives or parents. The rules for visits, tailored for adults, gave each prisoner the right to 1/2 hour weekly visit, but if a school-friend came, the child would not see mother or father until next week, a severe restriction

> *compared to visitation following divorce (generally one whole afternoon per week, every other weekend plus vacations). In Ole's case his family and other supporters, supported by the Ombudsman, finally found a place for him in a different institution. In Anders' case the Ombudsman asked if the child welfare board from his municipality could intervene, on the grounds that he was living under conditions which might damage his physical and/or mental health, the principle cause for child welfare intervention.*

The issue was in neither case whether or not the boys were criminal, in the sense that they had broken the law. Cases such as these raised two principle questions:

1. Should people as young as 14 years be imprisoned?
2. If imprisoned, should they be denied other rights in addition to the right to freedom?

The evaluation of the Ombudsman was that children of this age, demonstrating behaviour of these kinds, needed help, treatment and rehabilitation. According to prison officials, beneficial effects of imprisonment was at best uncertain. Young offenders said that the only thing they could certainly learn was how to be a "good criminal", and drug abuse. Particularly if denied a teacher or an education, their chances of getting on well when they got out of prison were seriously reduced.

The Ombudsman raised the question of age of imprisonment in 1985, by writing to the Minister of Justice, proposing a new age limit of 16 years. Norway was the only country in Scandinavia allowing imprisonment of 14-year-old children. Most of the juvenile delinquents were taken care of by the child welfare system, often in collaboration with child and adolescent psychiatry and/or the school system. In many municipalities a new form of reaction was being tried, where young "first-offenders" instead of being prosecuted would meet with whomever their offence concerned - for example a shop-owner (in cases of shoplifting or destruction) or a car-owner (in cases of theft) - and come to an agreement about how the youngster could replace or repair the damage done. When this type of reaction worked, the youngster would avoid a "black mark" on his or her record with the police, could gain from the confrontation with the damaged or offended person by coming face-to-face with the consequences of his or her actions, and learn how restitution might be made.

The fact remained that Norway, with no juvenile courts or prisons, allowed trial by "adult" court and imprisonment in "adult" prisons of children down to 14 years of age. Statistics (necessary to convince the politicians that the numbers involved would not be a great barrier to change) proved difficult to get, but in 1986-87 a proposal from the Ministry of Justice to the Storting indicated that 25 14- and 15-year-olds were in prison in 1987. In 1988 (up to Nov. 3) eight 14-year-olds and 21 15-years olds were in prison, the number might, however, include "repeaters". One argument against raising the age of imprisonment was that alternative methods of treatment were not available. But with the strengthening of the child welfare system in 1985-88, this argument, particularly seen in relation to the small numbers involved, did not carry much weight. The Storting in 1987 decided that the age limit should be raised to 15 years, but - exceptional in Norwegian Parliamentary history - did not say *when* this should happen. The proposal must be returned for renewed Storting debate to decide when the new law should go into effect. In 1988 the Ombudsman therefore asked the Ministry of Justice to re-propose the Act, pointing to the fact that Norwegian law on this point did not correspond with the Draft Convention of the Rights of the Child. The Ombudsman was asked to meet the Justice Standing Committee and spent time lobbying other Storting members, one of whom said: "I don't want to talk to you, you might convince me and I don't want to be convinced, since I believe now that we have to be tough with these tough youngsters!". The new law was passed in 1989, to go into effect Jan. 1, 1990.

2.4.3.2. *The Child Welfare system*

Lise was 16 and pregnant. Since the age of seven she had lived with foster-parents in X; her mother lived in Y. Lisa wanted to have her baby, stay in X, where she had friends, was active in sports, and felt that she had the support she needed.
But the child welfare board in X, with the support of the child welfare board in Y, wanted to move the girl away from X. According to the judgement of the Ombudsman a girl of this age should be able to manage, provided she could get the support she needed. There must be serious reasons for uprooting a girl against her will, from friends and school, even if she admitted she did not get on very well with her "parents". Asked by the Ombudsman for reasons, the child welfare boards agreed that Lise could not live with her mother in Y, the foster parents could not take care of the girl, particularly with a baby, and thought a man 50-60 years of age in X might be the baby's father. Since the girl became pregnant while under the age of sexual consent, the question of prosecution might arise. The final decision was to be made by the authorities in Y, her "home" municipality. The Ombudsman told Lisa that she, being over 15 years old, could appeal the decision. To act on her behalf at the decision-making meeting, the Ombudsman wrote to Y, requiring that Lisa should have her own lawyer, and pointed to Lisa's legal right (according to the Parents and Children Act) to have her opinions given serious consideration. Also, Lisa's right to be informed of the grounds for the proposed decision had been neglected. Finally the Ombudsman stressed the requirement of the Child Welfare Act that replacement (as well as placement) shall only be carried out if it is in the best interest of the child, indicating that the success of a move which would be so obviously against the will of the child, could be threatened for that reason alone. Consideration of alternatives which might as a whole be better not only for Lisa, but also for her child was proposed. If the authorities in X, with their knowledge of local conditions, had serious

objections to having Lisa live in X, these reasons must be explained fully to Lisa, to ensure her cooperation if she had to move.

The outcome was that Lisa was moved to a small apartment in X, and could continue in her school and other activities. A consultant from the social welfare service helped her learn how to manage her budget, the housekeeping and the care of the baby, who also had nursery placement during the day. (And the Ombudsman's legal advisor got his first and only bouquet of red roses when the baby was born).

This case did not give grounds for other action, but served to demonstrate the need to follow up the implementation of the rights of young people.

The opinions of the Ombudsman on proposals for change of the child welfare system were based on the professional knowledge of the Office, but also on my experience as a member of the municipal Child Welfare Board, the Social Welfare Board and the Municipal Council of one of the richest communities in Norway. Even there, where money did not become a real obstacle until 1986-88, child welfare was given low priority.

A total revision of the Social Welfare Act was proposed in 1985, incorporating other legislation (as the Child Welfare Act) in a new Social Services Act. In the first proposal municipal responsibility for conditions for children in general and for preventative measures in particular (§1 in the Child Welfare Act) was not included. The Ombudsman suggested that this general responsibility should again be included in the new Act. Also, each municipality should have a special Conditions for Children Board responsible for pointing out developments with harmful consequences for children (e.g. when play areas are destroyed), proposing preventative measures (e.g. age limits for renting videos) and demonstrating in general planning how money used in one area (e.g. kindergartens or pedestrian walks) can save more money in other areas (e.g. hospital expenses or special education).

The other main area of concern was the lack of rights for the children themselves. In my opinion children should have their own, independent right to help, so that whatever assistance a child might need could be given even if the parents objected. Present legislation permits that measures planned to help a child and avoid moving it can be carried out in spite of lack of parental consent. Parents might for example object to nursery school for a three-year-old child with speech problems. ("Our child is not going to a zoo! or a prison for kids!", as one parent said). Six months later the child was talking, mother was happy in a new part-time job, the family economy improved. The Bill for the Social Services Act did not, however, give the child independent rights.

The third Ombudsman proposal was that decisions of taking over parental responsibility without parental consent should no longer be made by lay people (politicians), but by professionals. The families involved usually have longlasting and complicated problems, and numerous attempts to improve the situation for the children have often failed. Such decisions are difficult and painful, to the parents, the caseworker and for the politicians. The caseworker who has to prepare the proposal for the political body is placed in an impossible situation, because he or she very often is responsible for further help to the parents after the child has been taken from them. The Ombudsman proposed local professional groups, with legal as well as psycho-social expertise, possibly with other responsibilities as well (for instance, counseling in divorce cases). The Social Services Bill indicated that professional boards on the county level may get the responsibility for these cases. In the view of the Ombudsman this would be an improvement, but also lead to a loss of the local knowledge so useful in these decisions, taking into account the distances in many counties in Norway.

Finally we proposed that county authorities should have the right to appeal or take these cases to court, since it had been clearly demonstrated that the Ministry of Health and Social Affairs did not appeal cases which obviously should have been tried, even when the county had asked for such an appeal. And we asked for guidelines for court evaluation of appeals, based on cases where a lower court had decided against the unanimous and clear-cut opinions of *five* independent professionals.

The bill was sent to the Storting in 1989, at which time the Ombudsman sent copies of the hearing statement to each member of the committee. The Bill was still in the Standing Committee on Social Affairs in May 1990[1].

2.4.3.2.1. Is the child's right to investigation and help unconditional?

The rising number of uninvestigated suspicions of child neglect in many municipalities caused increased concern among social workers and other child workers all over the country. A considered opinion (asked for by Redd Barna, the Save the Children organization) from Professor (of Law) Anders Bratholm in 1989 stated that the municipality's unconditional responsibility for investigating all such suspicions must mean that the obligation to provide necessary assistance was also unconditional. In practical terms this would mean that the municipality was legally bound to supply the necessary funds. The Ombudsman on the basis of complaints from social workers in the field, passed this statement to the Ministry of Health and Social Affairs, as the highest authority of the child and social welfare system. The Ministry of Health and Social Affairs did not agree with the statement, but had not given a written reply by January 1990. The viewpoint expressed orally was that while the municipality was obliged to investigate, the funds allocated to child welfare purposes must be decided by the municipality. If the funds were insufficient, there was nothing to be done. The Ombudsman's question was then, "Why investigate, when no funds were available until the following year?" in an attempt to make the Ministry realize that the right to investigation might be worthless for the children who really need help, if not connected with the right to adequate help. My plan for further action, if a written reply confirmed the oral viewpoint, was to go back to one of the municipalities that had raised the issue and ask their help in finding a family that had been denied investigation and/or help because of lack of funds. Finally the Ombudsman would ask the family to sue the municipal administration, to get the issue clarified, if necessary by the Supreme Court. (See also page 154).

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[1] The new Minister of Children and Family Affairs withdrew the Bill in late 1990. A new proposal, which I have not seen, is now being prepared and will be presented to the Storting Standing Committee in the autumn of 1991.

2.4.3.3. *Child Abuse/Physical Punishment*

In February 1982 the Ombudsman received (from an adult) a publication edited by a teacher, which advised parents to spank their babies if the children did not go to sleep promptly at night. This was the origin of the Ombudsman's work to promote legal measures against corporal punishment. The Ombudsman first asked the Public Prosecutor to consider whether advising parents to use corporal punishment was illegal, encouraging illegal acts being illegal in itself. The Public Prosecutor stated only that advice of this sort could not be termed encouragement, avoiding the issue of whether or not corporal punishment was legal. Somewhat later, a preacher on television stated that he, under divine guidance, had spanked his children regularly, from the age of two. The Ombudsman went on television to oppose this position and the public discussion was in full swing.

The Storting had discussed the issue in 1979, debating a proposal to delete from the Penal Code an exception according to which corporal punishment by parents, for educational purposes, was not classified as physical abuse and therefore not illegal. While the exception was deleted, the debate did not clarify the issue sufficiently to help the courts or child welfare boards deliberating cases of child abuse. Obviously further clarification was necessary. The Ombudsman therefore started preparatory work to propose a law amendment to the effect that physical punishment and other kinds of physical or mental abuse and neglect were not to be accepted. During the summer of 1982, however, a public commission on child abuse submitted its report (NOU 1982: 26), suggesting, amongst other measures to prevent child abuse, that corporal punishment and treatment that might threaten the physical or psychological development of a child should no longer be legal. The amendment was proposed to help change attitudes, the number of parents using corporal punishment had been dropping. It was also worthy of note that the amendment did not propose grounds for penal action. If the use of physical punishment was serious enough to warrant arraignment rather than treatment or help to parents as well as children, the Penal Code must be used.

This was the only suggestion from the commission related to the Parents and Children Act (the responsibility of the Ministry of Justice). The Ombudsman asked the Ministry of Health and Social Affairs to detach it from the rest of the package, which the Ministry did. The Ministry of Justice in June 1984 had prepared a Bill, based amongst other things on an Ombudsman statement on the legal and psychological consequences of corporal punishment. The Council of State was, however, unwilling to send the Bill to the Storting, in spite of the efforts of the Minister of Justice. The Ombudsman turned to Storting members to have questions asked in the Storting and to the Prime Minister, who in July 1985 replied that while the Council of State did intend to have the bill sent to the Storting, they had decided to wait for other amendments of the Parents and Children Act. The Council of State also felt that children were protected by the Penal Code, an opinion that was not shared by the Ministry of Justice or the courts. Other proposals for amendments were unknown to the Ombudsman. It turned out that no other amendments had been proposed at that time. If the Council of State was prepared to wait for any future amendments, the Bill might never be sent to the Storting. The Council of State changed in May 1986. The Bill was sent to the Storting late in 1986. The Standing Committee on Social Affairs submitted its opinion early in 1987. It then became clear that the Bill, couched in careful terms so it would provoke no one, would still leave the legal protection of children unclear. The Ombudsman now turned to a Superior Court lawyer and two law professors, asking them to give written statements on the effects of the law, if the Storting did not, in its final debate, clarify the intentions and therefore the interpretation of the new law. The written statements appeared in the newspapers a few days prior to the Storting debate. In the meantime the ombudsman lobbied members of the Storting, explaining why the new proposal was equivocal. In the Storting debate speakers from all parties (the parties split on the issue) made it clear that there should be no doubt about the legal protection of children. The amendment was passed and went into effect January 1, 1988, making illegal any kind of treatment of a child which could be a threat to the physical or psychological development of the child.

The Ombudsman then asked for an information campaign, to inform children and parents of the Act, but more important, to point to alternative ways of providing necessary discipline. Two small booklets (10.000 copies) were published by the Ministry of Health and Social Affairs, and a full-page advertisement appeared in all major Norwegian newspapers in 1988 (when similar legislation was passed in Sweden in 1979, the Ministry there mounted the widest campaign in the history of the Ministry, including booklets to every Swedish household).

2.4.3.4. *Children in hospital*

In the 1970s two national organizations (Mental Barnehjelp and the Norwegian OMEP) suggested rules or regulations setting standards for conditions for children in hospital. Hygiene demands in modern hospitals and a lack of knowledge about the needs and reactions of children had led to unfortunate restrictions. Parents could only visit their children briefly and rarely, sometimes not even daily. Based on current research (see above page 249-250) the Ministry of Health and Social Affairs at that time considered regulations, but found that the discrepancy between the requirements and conditions in the hospitals was so great that regulations would involve expenses too enormous to contemplate. Guidelines were, however, given, with recommendations to the hospitals. Parents should be allowed to visit freely, and children, at least under the age of six years, should be allowed to have parents with them when necessary, e.g. in critical phases or prior to operations.

In 1982 the Ombudsman asked Mental Barnehjelp to evaluate the present situation in hospitals, and was referred to the Scandinavian Association for the Needs of Sick Children (NOBAB). The Norwegian branch and the Association for Hospital Teachers in 1985 presented a rcport, showing that conditions were satisfactory in the majority of hospitals, but that activity and education was a neglected area.

The Ombudsman in 1986 asked the Ministry of Health and Social Affairs to consider a revision of the guidelines, also upgrading them to regulations, based on the Hospital Act and the Act of Health Service to Psychiatric Patients. The Ombudsman, in collaboration with the organizations and also including the Norwegian Association for the Handicapped, helped to prepare the regulations, which were passed in 1987. The regulations give children stronger rights, for instance, to preschool and school activities and education, and to have parents present at any time, even after the age of six. The parents now have the right to spend nights in the hospital and to have meals in the hospital cafeteria. Some problems still remained unsolved, for example, the funding of special education in hospitals. Municipalities differ in their willingness to pay the bill, so that even children with the same diagnosis, in the same ward, but coming from different communities, may get different treatments. The Ombudsman therefore suggested (in letters to the Ministries of Health and Social Affairs and of Church and

Education) that the municipalities pay an annual lump-sum allocation to the counties, based on the average number of hospital days for children from the municipality during the past 5 years.[4]

The financial problem of parents during the longterm illness of a child, with the loss of income this may involve is still unsolved, and parents still face the problem of split responsibility when they have other children at home. The latter is, however, a problem which can hardly be solved by legal means.

2.4.3.5. *Asylum-seekers and young immigrants*

> *Mary was 15, and faced the possibility of being sent to her parents' country of origin to be married. She had lived in Norway since the age of three. The idea of being sent to an country unknown to her, to traditions different from many she was accustomed to, and of marrying a stranger, made her desperate. Since this was a family conflict, the Ombudsman could only give advice, suggesting that the local child welfare board might consider whether there were grounds to intervene. If it took over parental responsibility, the girl would be placed in a foster home and would avoid being "exported". The outcome was that the parents, faced with this possibility, decided to let the girl stay with them in Norway.*

For the Ombudsman the practically non-existent number of complaints received from children of immigrants was a matter of concern. The Ministry of Local Government and Labour had declined to translate Ombudsman material into other languages for these groups. Increased concern was caused by the increase of racist propaganda in 1987-88.

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[4] Melton (1991, in press) reports that the Ministry of Education in Oct. 1989 "has been negotiating long-term solutions" on exactly these lines.

In 1988 barely 33.000 persons 0-19 years of age of foreign origin lived in Norway, three fifths as many as the annual number of newborn Norwegians (the number of non-Norwegians living in Norway is far lower than the number of Norwegian children living in other countries). (NOS Population Statistics 1988, CBS and Barnfakta, siffror från barns vardag, Barnmiljørådet 1987 in "Facts about Children in Norway" 1990). The number did not include young asylum seekers as it was impossible to find out how many minors were seeking asylum or were members of asylum seeking families. This question in itself was of concern to the Ombudsman in 1987-88, since it indicated lack of public interest in these youngsters. The Ombudsman was worried that these children were not provided with education and health services according to the rights they had as inhabitants. The Ombudsman carried out an investigation in 1987 which showed that the Ministries and the police did not know how many municipalities had children of these categories within their boundaries, how many children might be involved. Further investigation in the municipalities disclosed lacks in how the educational rights of these children were taken care of, the municipalities often putting the blame on lack of additional funds to go with the added responsibilities.

An entire re-distribution of responsibility, with a new Directorate for Foreigners was underway, making it temporarily more difficult to find out who was responsible for what. A special issue was brought up by some 16-year-olds: these young people did not have guardians appointed to help them, they had been arbitrarily moved from place to place, four times in six months, and they then did not go to school. The Ombudsman prepared a report on the educational situation in 1988, and also raised the question of guardians. The Ministry of Health and Social Affairs, while agreeing that this concerned child welfare, referred to the Ministry of Justice, responsible for the Guardianship Act. The office responsible for the Act referred to a different office responsible for implementation. This office referred to the new Directorate as responsible for foreigners.

In the meantime the Ombudsman, collaborating with "Redd Barna" and the Diocesan Council of Oslo, asked the Ministry of Justice for new procedures in initial interviews with immigrants on arrival, to be able to register the number of minors, their special needs, and if the children were somehow the cause for seeking asylum in Norway. Minors arriving alone must be provided with a guardian, and the interviews must take into consideration the children's previous traumatic experiences, for example, in their earlier contacts with police. While general agreement was expressed in principle, little improvement was found in the following year. The Ombudsman participated in several rallies, and organized seminars (in collaboration with NGO's) on the situation of these children. The Ombudsman argued the rights of this small minority group, and also quoted the Draft Convention on the Rights of the Child, pointing out that the right to a nationality was being neglected in Norway. If Norway is not prepared to give automatic citizenship to any child born in the country, Norway cannot solve this issue alone, since the right to a nationality then depends on the legislations of and agreements between two countries. A child born out of wedlock, in Norway, with a mother from, for example, an African country which gives the child the citizenship of the father, will be "stateless". The child in Norway would get the nationality of the mother if the parents are not married. But Norway cannot give the child its African mother's nationality.

No major change in practice evolved from the Ombudsman efforts even if government policies have improved in principle. But the issue was on the national agenda and could no longer be ignored.

2.4.4. SUMMARY AND QUESTIONS

Many of the problems relating to children in uncommon circumstances have in common the consequences and considerations which occur when children are separated from their parents. Consequently measures that can mitigate the situation(s) are needed. It seems that research evidence is well accepted, and in some situations have led to important changes, for example in hospitals (at least the children's wards. How such measures work in wards for adults which also have child patients is somewhat less certain). In other situations practical problems still remain. It is, for example, difficult to find foster families for many children, even though the idea that older children are hard to place may be exaggerated. Much may depend on the support available from other service systems (for example child psychiatry) to foster parents. Also some pressures to which they may now be exposed could be avoided. One foster family reported that they had been in touch with 12 different "helpers" in the course of two years. Having *one* caseworker responsible would help, particularly if that caseworker had access to advice from others when needed.

A different issue is how to avoid "oscillation". If a child has been without contact with biological parents and the prospect of moving back is very dim, perhaps foster parents should have the right to adopt the child. In any case, contracts between foster parents and the service system should make the time perspective very clear.

A most difficult problem lies in the evaluation of what, in each case, is really "in the best interest of the child". Knowledge about the needs of the developing child can serve as a guide, but will not give the final answer. Cultural values are important. In some countries placement outside of the extended family would be unacceptable. Evaluation of the child and the parents, taking into account that they are in a difficult situation to which they are naturally reacting, is not easy and may not always be possible. Insight into the possible "blind spots" of the investigator, caused by his or her own personal experiences or by the fact that there is simply too much to do, is not easy either. Sometimes the best one can do is to try to avoid what is known to be detrimental, such as "oscillation", and knowing that the final proof of whether a choice was "the best" or not will not be forthcoming, make a decision based on an honest evaluation of the alternatives.

More research is also needed on the effects of different *kinds* of foster homes. How necessary is it for the child and the foster family to be of the same race? to have similar cultural backgrounds? This is in many countries, with increasing migration, a more important issue than it has been. Should single adults be allowed to be foster parents? If so, are there special considerations as to the age or other circumstances of the child which should then be made?

Legal questions also remain unanswered: At what age and under which circumstances should the child have a legal right to give his or her opinion on planned placement? At what age the child have the right to make the *final* decision? Should for instance a child have the right to oppose hospitalization in an institution of child or adolescent psychiatry? If the child has the right to decide, should he or she always be obliged to exercise that right? Or should a decision *not* to make a decision be accepted as the decision of the child?

In Norway, the Parents and Children Act and the Child Welfare Act should be coordinated in a fashion which would improve the situation of the child. Now, even when both parents have been evaluated and pronounced capable of having custody, the care of a child can not be transferred to the "other" parent without a new court decision if the custodial parent for some reason is unable to provide adequate care. In such cases the child welfare system can take over the care of the child, but can place it only in a foster home or an institution.

2.5. Culture and consumer issues

2.5.1. BASIC CONSIDERATIONS

The issues under this Ombudsman problem heading were diverse: the effects of advertising on children, which in our cases concerned the negative effects of television. Other television and video problems were related issues. Accidents in the home and due to dangerous products were also defined as "consumer-related", but the research was scanty, except for frequency (see Chapter Three, page 93-94). "Accident-proness" in individual children was not considered. Accidents in the home were also connected with accidents in the vicinity of the home and were closely related to traffic and area planning problems.

Treatment of children as customers and as participants in the labor market were also problem areas. No research was found for either (with the exception of advertising, as mentioned above).

2.5.1.1. *Marketing and children*

Children are a group of consumers being paid more and more attention by marketing interests, as witnessed, for example, by the European Society for Opinion and Marketing Research, which had "Marketing to Children and Young Consumers" as the theme for an international seminar in 1984 (ESOMAR 1984). The declining numbers of children cause concern for manufacturers and advertisers: How can the young be captured when they are young, to ensure buyers for the products in the future? This means that children and young people are under pressure to buy, but it does not necessarily mean that their basic needs are considered, nor the vulnerability they may have when exposed to advertising techniques planned "to hit them below the belt". The parents are also targets for advertising, being told that "This product is so good for your child!" or "If you really want your child to develop properly, you MUST provide this product!". The truth of such statements can indeed be dubious. In addition, important facts, e.g. dangerous ingredients or hazards of use, may be withheld.

Children's ability to judge products as well as what is said about them develops gradually, but regardless of that, in my opinion, children should not be exposed to temptations of wanting or buying dangerous or unhealthy products.

2.5.1.2. *Television*

Television advertising is only one part of the entire television scene, which includes videos as well as programming. Much of this is unsuitable, some of it even harmful, for children. The collected knowledge, based on research reviews by Maccoby (1964), Papalia & Olds (1981) and Stein & Friedrich (1975) on the possible negative effects of television may be summarized as follows:

- The values, attitudes, and behavior of children is effected by the mass media in good ways and bad. Audiovisual aids can be valuable in education but auditive and visual mass media can have negative consequences, particularly for the youngest children, when used excessively for entertainment or without proper control, for example when children are exposed to or use mass media produced for adult consumers, particularly if the children watch without adult company.
- How strong the effects of massmedia will be depends on the quality and quantity of the mass media consumption. Some research indicates that children may be harmed by watching large amounts of television irrespective of the contents of what they are watching, partly due to physical inactivity, partly because they then miss for example social interactions with peers. The effects of mass media will also depend on individual personality factors, such as intelligence, needs, temperament, and age. The general level of adjustment and knowledge of the child is also important.
- Children are more vulnerable the younger they are. At the age of 10-12 years their general frame of reference will allow them to

get a realistic perception of contents in media information produced for adult consumers.

- Children will use what they learn from mass media (also from entertainment programmes) in their interpretation and understanding of real life experiences. Information from the press, newscasts in television etc. can lead to misinterpretations of reality. Nightmares and anxiety reactions may occur or children may develop a general depression or a pessimistic view of the future.
- The negative behavioral effects of mass media may include:

  a) the effects of violence and aggression, increasing such behavior and such ways of solving conflicts, particularly in children who are reared in families where aggression is accepted or easily provoked.

  b) the increase of anxiety and pessimism as a consequence of anxiety-loaded information or entertainment, particularly in children who are prone to introjection of aggression.

2.5.2. THE EXISTING NORWEGIAN SYSTEM

2.5.2.1. *Television and video*

The Norwegian Broadcasting Corporation (NRK) until the beginning of the 1980s had a virtual monopoly on radio and television. Monopoly does not mean censorship. Feelings about free speech are strong and the NRK is very aware of and sensitive to possible criticism on this point. Television was introduced in the 1960s, but even now there may be places where TV is not available or has a poor quality, due to the combination of costs, mountains and long distances. Television (in 1990) was on the air six to ten hours per day, the daily programme starting at 5 or 6 o'clock p.m. Children's TV until 1988 was the first programme, starting at 6 p.m. Now news and a rerun fill the hour from 5 to 6 p.m. In many parts of Norway, Swedish television, with two channels, is an addition to the Norwegian. There is no advertising on any of these three programs.

NRK has its own legislation. "Excessive" violence and swearing, pornography, and maligning are not allowed. Films to be shown in public elsewhere must be controlled and have age limits set by the State Film and Video Control. Videos to be shown in public *may* be controlled by the State Film and Video Control, while videos for private consumption are not controlled, except with reference to the Penal Code, according to which pornography and extreme violence are illegal. NRK has its own rules for what can be broadcast, the legislation for films and videos does not apply for this institution.

2.5.2.2. *Consumer and product legislation*

Legislation like the Product Control Act and consumer legislation also applies where children are concerned. Local consumer interests' offices are also supposed to help children. Special protection is in part provided by the Guardianship Act, mostly aimed at protecting the financial interests of minors in general, but including one paragraph prohibiting minors to incur debts. This means, for example, that a minor cannot alone sign a contract for mail order or installment purchases, but must also have the signature of a guardian for the contract to be legally binding. Children over 15 years may use money they have earned or small amounts they have received as gifts, but cannot freely use amounts they have inherited or been given for a special purpose, for instance, education.

2.5.3. COMPLAINTS AND PROBLEMS PRESENTED TO THE OMBUDSMAN

As mentioned above, this problem area is diverse and includes the mass media, children's own cultural creativity, culture for children (e.g. books and films). As consumers, the problems that arise with dangerous products (toys as well as household products) are considered here. The home is one of the "products" used by children, so hazards of housing are also included, indicating that some of these problems are in the "gray zone" between housing and environment. The "consumption" of private, free time activities and of the labor-market are in the "gray zone" between "consumers" and other areas of society.

The number of complaints in this area remained relatively stable, with complaints about TV and video and dangerous products practically splitting the entire case-load.

Table 28. Problems raised in problem area "Culture and consumer problems".

	1982	1983	1984	1985	1986	1987	1988	1989
Media, video, TV	49	39	35	22	21	29	27	22
Hazardous products	26	27	24	32	33	24	39	30
Labor, jobs	8	7	10	11	7	3	9	6
Books, movies, magazines	0	7	8	7	7	8	15	11
Private organizations	0	5	8	8	8	5	3	4
Miscellaneous	21	3	3	6	3	2	2	1
Total	104	88	88	86	79	71	95	74

In stead of "Books, movies, magazines" in 1989 the categories were "Children and culture" (11) and "Youth and culture" (0).

Complaints in this area constitute approx. 10% of all adult complaints, 12% of the children's complaints. As in other problem areas the public debate brought some increase, while new legislation (e.g. the Film and Video Act in 1985) brought a lull.

Table 29. Complaints from children.

Year	Total all cases			Total within problem area				
	T	A	C	T	A	%	C	%
1982	763	621	142	104	74	11,9	30	21,1
1983	830	727	103	88	72	9,9	16	15,5
1984	820	726	94	88	66	9,1	12	12,8
1985	798	727	71	86	76	10,5	10	14,1
1986	855	766	79	79	69	9,0	10	12,7
1987	877	719	78	71	61	7,6	10	12,8
1988	961	896	65	95	92	10,3	3	4,6
1989	1004	908	96	74	70	10,2	4	4,2

T = Total number of cases in problem area.
A = Total number of adult cases in problem area, % of total annual number of adult cases.
C = Total number of children's cases in area, % of total annual number of children's cases.

The differences between the children's complaints and the adult complaints can be found by looking at the cases, not at the statistics. When children complain about TV, they want *more*, more children's programmes, more cartoons, more nature programmes, or they have been frightened by violence, the news programmes, the murder stories. Adults want *less*, fewer adult films broadcast when children watch, less violence in the news; special programmes are criticized for possible harmful impact on the younger generation.

The other difference is that children complain of consumer-linked problems unknown to the adults, in the sense that since adults are not subjected to the situation, they have no reason to complain. Children - but never adults - are offered sweets in return for refund bottles. Children are passed over in favour of adults waiting for service in stores, post offices or banks. Sometimes adults simply have not realized the situation which brings about the child's complaint, but are very willing to change it when they realize what is happening.

2.5.3.1. *Mass media, video and television*

Problems connected with video were actually the first major issues brought to the Office, before the Ombudsman Act went into effect. It was just not clear at that time how important and dominating these problems would be. In late August 1981, two mothers - separately - called to ask if forcing children to watch pornographic videos might not be called child abuse. The ombudsman said "yes", and the individual complaints did not require further action.

The Council of State appointed in September 1981 established a new Ministry for Cultural and Scientific Affairs. The Minister announced that the NRK monopoly was to be "cracked", and new channels made available. Video (both machines and films) boomed, the sales starting to peak during Christmas 1981.

The cases concerned with mass media might be divided into three main groups, all of which started in 1981 and 1982 and ran through the entire period from 1981 to 1989. With few exceptions the various problems met with little success in attempts to modify the situation.

- The public national broadcasting, particularly television.
- Videos.
- Other mass media, particularly the press.

The two first have much in common. The Office collected all the research it could find on the effects of "the small screen" on children. A summary of available research evidence was the basis for lectures all over the country and statements in many connections and a bibliography was submitted to many applicants requesting information, for use on the local level.

2.5.3.1.1. Public national broadcasting

Only one channel broadcasts TV in Norwegian. Individual complaints or demands concerning programmes were passed on to the national broadcasting corporation for replies, but the Ombudsman made a note of the contents, which in many cases were included in more general issues raised by the Ombudsman.

The first flood of complaints to the Ombudsman's Office happened during the World Cup in 1982. In one game the score was tied when the time was up. Extra playing time started at 6 p.m., so children's TV was dropped. The Ombudsman, reacting on the numerous complaints, asked the NRK to avoid such disregard of children in favor of adults, and NRK promised to try. After that, while children's TV might be shortened or slightly displaced, sports events have never caused cancellation of the children's programme.

Attempts to modify the newscasts met with no success whatever. NRK was asked to give warning when the newscasts included particularly violent scenes, for example, close-ups of the assasination of a President sent in slow motion at least three times in the course of half an hour. NRK said that this must be up to the anchor persons, and only one (a woman) ever gives such warning. The next attempt, started in December 1984, asked NRK to move the main newscast, broadcast at 7.30 p.m., to 8.30 p.m. or 9.00 p.m.

> *Nine children, 9 years old, wrote: "We go to X school, in 3. grade. We want you to help us so that NRK will move the afternoon news and the main newscast. When we watch Children's TV we don't like the afternoon news, because we switch on the TV and get the news when we are waiting for Children's programme. Children smaller than us like it even less than we do. We think the main newscast should be at 9 (21). We want a news programme for children, to tell us about the things we want to know. It is not fair that only the adults can decide! We hope you can help."*

In 1985 the Ombudsman got the support of 35 non-governmental organizations, with a total of three million members, backing this request. NRK replied that the news (or the more violent scenes, as suggested as an alternative by the Office) could not be postponed till the late evening news because of the elderly, who go to bed early. Also, children need to know what the world is like, and according to NRK's own research office "only a minority" (45%) of the parents with small children wished to have the programme moved, a statement seriously questioned by the Ombudsman. The Ombudsman pointed out that children under the ages of seven to nine do not learn "what the world is like" when they are frightened by the excerpts shown in the news. Work with this case was dropped as useless after 1986; but the problem as a case could not be closed, since the Office even after that often received requests for help in moving the newscast. These plaintiffs were given information about previous attempts, information which was also included in hearing statements of later years. The cause, however, was considered lost in 1986/87.

The Ombudsman also in 1982, 1983, 1984 and 1985 asked for special news programmes for children and an educational programme for parents. NRK in 1986 wrote that they hoped to start a news programme for children in 1987. It had not appeared by January 1991.[1] The programme for parents on child development and child behaviour was repeatedly turned down, because "we have done it before" (winter of 1975, a very popular series of 10 programmes) "we have no free time slots" (free time was found for teaching bridge, training of dogs, cooking, gardening, winter driving, mountain behavior in winter, boating...). The last suggestion from the Ombudsman was a "Panel for Parents", in which the Norwegian Pediatric Society, the Norwegian Association of Child Psychiatrists, and the Norwegian Psychologists Association had promised to provide experts, to answer questions from viewers. Two lawyers had also promised to participate. The idea, said NRK, was interesting. And that was that.

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[1] Since I have been mostly out of the country in 1991, I do not know what has happened later.

Programmes for parents did, however, appear in August, September, October and November 1989, actually at least 2 series, one on "Children in the Way" (about conditions for children), one on the Convention on the Rights of the Child. (See footnote 1). One of the surprising factors is the difference between the views stated by NRK (No time, no interest) and their actual programming, where programmes about children have appeared increasingly.

Early one Saturday morning a film was broadcast, which was in my opinion unsuited for children, who (with sleeping parents) might well be the main audience. The Ombudsman asked to review it with some of the experts of the State Film and Video Control, who said that they would have set an age limit of 16 years, if some cuts (of violent scenes) had been made first. The Ombudsman raised the question of indicating age limits for films in national TV. Films shown by NRK can be defined as public (i.e. shown anywhere) or private, since they are mostly viewed at home. Many parents would like to know which age groups a film is suited for; so the Ombudsman asked NRK to inform the public of the age limits set if the film had been shown in public. "Not all films have age limits" was the reply, and "Some are so outdated that the age limits are of no help now. Besides, if children know the age limits, they will certainly want to see the ones forbidden to them in public, a 'fruit from the forbidden tree'-reaction". I still believe that information would be helpful for parents. Even if - as NRK told us in connection with the daily newscast - "it is the parents' responsibility to monitor what their children see", parents are denied information enabling them to monitor on the grounds of factual knowledge. Why make monitoring more difficult than it need be? And with the increasing number of channels (by cable TV and parabola antennas, now more and more common), why not have *one* channel which parents safely can let their children watch?

The hearing statements of the Ombudsman concerned the effects of mass media policies for children, as well as the question of advertising, which was discussed in connection with the proposal for local radio and television stations and a second national station in 1984/85. The pressures on children, the attitudes and values transmitted by advertising, particularly combined with young children's lack of ability to judge the truth and reality of what they see, were the main reasons for objecting to advertising on principle. A secondary option was to have no advertising before 9 p.m. or in direct connection with programmes for children, nor advertising of products for children. The question has still not been decided (1991).

2.5.3.1.2. Videos

> *Ingunn, 9 years old in 1982, came home from school pale and shaken. One of her classmates had invited another girl, Berit, home to see the film "daddy has locked away". "Berit came back and she cried and cried and cried - she couldn't stop and she couldn't tell us about the film".*

Schools reported that teenagers, particularly the ones not doing so well in class or the un-popular ones, stayed home to watch video, or used the "bait" of video to "buy" companionship. Parents were shocked to find that even films they had seen in public turned out to have contents on video not shown in the cinemas, nor described on the cover of the video, different versions altogether of films which they believed would be suitable for their young children.

Increasing numbers of local study reports from all over the country indicated that these were common problems indeed. In 1982 10% of Norwegian households had a video machine (many to supplement the only TV-channel available to them), in 1988 35% had one. But children and teenagers reported that they could watch video whenever they wanted, by going to friends and neighbors, or even by watching demonstrations in stores. Children age 12 to 16 were the biggest consumers. They preferred action and violence films, particularly the boys, but the girls went along. Mostly they watched video without parental guidance, partly because most of the video watching happens when parents are away and without parental knowledge at least of the contents, for example at teenage parties. Videos are much cheaper than going to the movies, three to four films per evening was not uncommon. Exceptional users can see 50 films from Friday afternoon to Monday morning; most teenagers see at least three films per month. There is no significant difference between rural and urban youngsters, nor between different socio-economic groups, as was believed by some politicians in 1982.

In addition to many lectures, the Ombudsman in various ways tried to reduce the possible negative effects of the free video consumption. In 1982 the Office proposed that the Ministry of Consumer Affairs and Government Administration prepare a booklet for parents on the possible effects of video. In 1984 the Ministry of Health and Social Affairs published a booklet on Children and TV. In statements concerning the proposal for a new Film and Video Act (1983-84) the Ombudsman supported proposals for new age limits for films and videos, suggesting that all videos for persons under 18 years of age be subject to the same kind of control and age limits as films for public use, and the proposal that all distributors of video must have municipal permission to sell or rent videos. A State Register for Videos, which would contain information about all videos entering the country, was not sufficient, since the mark set on videos in this register would only indicate that the contents of the video were not illegal as defined by the Penal Code restrictions against pornographic or excessively violent content. Consumers mistook this marking as a seal of quality. The Penal Code was not effective, as demonstrated when in 1984 the Ombudsman in collaboration with an action group against video violence asked the police to prosecute distributors in four municipalities for distributing a video obviously too violent to be legal. The Ombudsman wanted to see whether the police in different parts of the country would reach the same decision or whether young people could get different degrees of violence, depending on where they lived. All four cases were shelved by the police "for lack of importance of the consequences".

These viewpoints, and a suggestion that no person under 18 years should be allowed to rent videos (with reference to the Guardianship Act), were repeated in many connections during 1985-88. When the Storting debated the Film and Video Act, it was hoped that all videos for people under 18 might be controlled, because the Christian Democratic Party had voted to support the Labor Party platform decision on this point. The Labor Party, however, did not vote for its own programme. Instead, municipalities were encouraged to strengthen local control and establish their own age limits if they so wished. Some municipalities have an 18-year age limit, some have rules stating that no person can rent a video with an age-limit above their own age, but most of the municipalities do not have special rules at all. Even with an age limit in one municipality, the youngsters can probably get what they want by crossing into the neighbouring municipality.

With the knowledge that municipal authorization may be withdrawn, at least there is some hope that the worst examples of illegal distribution may be weeded out of the market. An important factor is the heightened awareness amongst parents and the public in general about what videos may contain and their possible effects on young people.

2.5.3.1.3. The press

In relation to the press, the Ombudsman supported stronger measures against pornography, suggesting in 1982 that such measures should be considered by the Ombudsman for Consumer Affairs and the Consumer Council. In particular the Office asked the Minister of Justice to control distribution so that the children themselves were not exposed to pornographic material, specially material containing child pornography and implicitly expressing the opinion that sexual abuse of children was acceptable. This opinion was expressed to the Standing Justice Committee of the Storting in 1984 and repeated in a hearing statement to a proposal for restrictions in the Penal Code in 1985, in which child pornographic material was categorically forbidden for sale.

The other main problem raised by the Ombudsman in relation to the press concerned the use of pictures and stories of recognizable children, in connection with for example murder cases and child welfare cases. Marie's father killed her mother when Marie was two years old. When Marie was five years old, her grandmother - with much publicity - won custody; and Marie again was repeatedly presented in newspapers and magazines. When Marie was eight, a weekly magazine had a "follow-up" story. Marie - and her cousins, aunts and uncles - could go nowhere without public attention and comments. Marie's father, while in prison, had custody until the court gave custody to her grandmother. He therefore was legally in the position to grant or forbid publication of photographs of his daughter. But the photographers had not asked for his permission, but only the permission of grandmother, who was not legally in a position to give this permission.

Kari, age 8, learned from the newspapers about the suspicions of crime on the part of her father, when the newspapers presented "her" story in connection with her mother's allegation of maltreatment by the local child welfare board.

Mass media presentations of child welfare cases, as sensational "sob stories" and "scandals", may give the uninformed reader the impression that the child welfare system "kidnaps children for no reason, even in the middle of the night". Parents, frightened by such stories, are reluctant to ask for help when needed. Local members of the child welfare board, dreading headlines and public criticism, particularly in transparent small communities, may be reluctant to make decisions. The National Press Council at first insisted that social workers and others, bound by confidentiality, would not give their evaluation of the case, so the stories had to be published in this way. But parents, parties in the case, have access to all information, so the evaluation is available to reporters if the parents are willing to submit it. Pointing this out to the National Press Council, the Ombudsman asked for reconsideration of the rules for the press in presenting such cases. The National Press Council in 1987 changed the rules for the use of photographs and the presentation of cases on individual children, providing better protection for the children involved. Recognizable pictures of individual children were in these cases no longer permitted, and a special rule "Take Special Care where children are concerned" was added.

2.5.3.1.4. Books, films, theatre, magazines

There were very few efforts on the part of the Ombudsman concerning books, films, theater and magazines for children, except supporting initiatives for not only more culture *for* children, but also possibilities for more culture *by* children. The only other question of principle interest concerned age limits, as referred above (see chapter on video). The age limits suggested were 5, 10, 15 and 18 years, supported by the Ombudsman. We did not, however, agree to the practice of keeping "old" age limits on films controlled before the new Act went into effect. These age limits were not necessarily "wrong", but the effect was that by keeping both the new and the old limits, there was a jungle of ages: 5, 7, 10, 12, 14, 16 and 18. And the new rule that children could attend a film with an age limit over their own age when accompanied by parents, meant that a five-year-old could see a film in the 10 to 15 year age group, but not an "old" film for seven-year-olds!

Simen, ten, wrote to complain of the age-limit (12 years) set for the movie "E.T". But he understood that the choice possible for the State Control was either (at that time) 12 or seven, and he understood why the State Control did not find the film suitable for seven-year-olds, even though he still thought he was old enough to see the film (and had obviously done so). Marie, nine, complained of the age limit (12 years) for "Amadeus", referring also to the advertisement: "A film for the whole family, bring them all!", insisting that she belonged to the family and therefore could see the movie. The person responsible for the advertisement claimed that she disagreed with the age limit and therefore had opened it up for younger children. She was asked how she could expect children to respect limits set on this and other occasions if adults demonstrated their disregard and wanted to change rules by breaking them. She finally modified the advertisement: "A family film!".

2.5.3.2. *Products, dangerous or otherwise doubtful*

Some of the proposals from the Ombudsman regarding hazardous products might equally well have been handled under the heading of accident prevention in general. This is an important area in Norway because the accident rate for children is so high. (See page 93-94). The efforts of the Ombudsman were specific as well as general, supporting proposals of others, in particular the State Pollution Control, which is the authority on product control. During the years this Control suggested many measures aimed at increasing the safe use of toys and equipment for children.

On the more general level the Ombudsman in 1985 suggested collaboration between several ministries in a group for accident-prevention for children. An action committee of experts appointed by the Ministry of Consumer Affairs and Government Administration in 1981 had finished the first phase of its work by 1985 and was then requested to suggest measures for safeguarding children. But the staff had then been reduced from four full-time to one part-time position. A new advisory group was appointed in 1985-86, with the Ombudsman as vice chairman, to work for accident prevention for children. The group consisted of representatives of four ministries, the Directorate of Health, the

National Institute for Public Health and a great number of non-governmental organizations, such as the Norwegian Housewives Organization, the "Safe Traffic"-organization. Recommendations were given as an on-going process, fed into several public campaigns on accident prevention in general. One of these campaigns was launched in 1988 with a demonstration outside the Storting, shortly before the budget debates, to focus interest on accidents involving children. The Ombudsman had all the organizations involved in the advisory group sign a petition to the Storting, asking for consideration of this issue in the budget. A group of 90 children from a nearby school, half marked as "Swedish", demonstrated visually the number of children who could be expected to die from accidental causes during one year in the two countries. Afterwards the children attended the Storting meeting and were visible to the speakers during the debate of this issue. The meeting between the children and the President of the Storting was televised.

In 1985 the Ombudsman also suggested amendments to the Building Act, proposing the same accident-preventive measures in housing that Sweden has had since 1979. When built into new housing, safety measures like safe electrical sockets, cabinets for medicines and poisons, safe spaces between stair treads and railing bars are inexpensive. Built in later the costs are much higher. Rules of this kind were incorporated in the Building Act in 1989.

A question touching on toys, advertising and the mass media was raised by nine-year-old Harald in 1982:

> *"I think war-toys should be forbidden. They scare me and we don't need to learn how to make war. We need to know how to make peace".*

Children have "played war" and "shooting" games such as "Cowboys and Indians" and "Cops and Robbers" long before modern wars started. There was never any serious argument to forbid such games, which had also demonstrated that children have made their own toy weapons when needed, even using a pointed finger to represent, for example, a pistol. The objections were against the lifelike models and the highly developed toys which stutter, produce bullets and otherwise leave little room for imagination, and were, it was felt, unnecessary and might even stimulate aggressive play beyond what the children themselves actually needed or wanted.

Foreign TV-stations, computer manufacturers, and game-makers had not then started to reach Norway with their advertisements for space age conflicts. In the 1970s a campaign against war toys had resulted in an agreement between the toy distributors and the ministry (then of Family and Consumer Affairs), according to which war equipment toys from the period 1918 to 1950 were not to be advertised or offered for sale, even if these toys were available when specifically requested. During the period between 1981 and 1987 it was obvious to the Ombudsman that the old agreement was no longer good enough, since war action toys and toy like weapons (often difficult to differentiate from the real things and used, as demonstrated by the police, in fights and other conflicts) were increasingly on the market.

In collaboration with the Labor Party Youth movement the Ombudsman asked the Minister of Consumer Affairs and Government Administration to consider a new agreement, but the toy distributors would not cooperate. Surveys of sales in areas with and without cable- and/or parabola antenna TV clearly demonstrated large increases of sales for the toys advertised by foreign channels. The Ombudsman then asked the minister to propose a ban on advertisements (like the one on advertising tobacco and alcohol). The Minister declined. Finally, in 1989, the Ombudsman suggested that the minister propose a statement of opinion from the Storting, like the opinion stated by the Swedish Parliament, asking all branches of business to "clean their own houses", expressing concern about the effects on children of war- and violence play materials (including computer and TV games with violent and/or sexual/pornographic content, and weapons copied from TV, like "Rambo-knives"). Sweden's Parliament would review the situation after two years, and would pass legislation to prohibit such products if the merchants themselves had not done enough about the situation. The Ombudsman suggested that the Norwegian Storting, not so willing to instigate legislation, should at least consider the possibility of legislating against these products. As of the time when I left office, no reply had been received to this proposal.

2.5.3.3. *Children and the labour market*

Child labour as it is known amongst street children in other parts of the world hardly exists in Norway. The cases brought to the Ombudsman's office were concerned with the child's position and rights in the ordinary labor market. Children were employed, but not given fair terms or the protection of labor legislation accorded to adults. Or they were not employed, for reasons that seemed unfair. The labor legislation has special rules aimed at protecting young people from, for example, night shifts, extremely hard physical labor or work with dangerous machinery. The main principle is that working should not be harmful to the health or education of a young person. Some complaints concerned conditions where these main principles were not upheld.

> *Kari and Marit, 13 years old, were employed to sell strawberries from a wagon during the season, but had to work 12 to 14 hours a day and well into the night, without the basic salary or the overtime pay an adult doing the same job would receive.*
> *Berna, David, and Kaisa, all preschool children, were playing music, dancing, and entertaining in the streets well after midnight.*

In both cases the local labor supervision would have been brought into the situation had only adults been involved. And they did go in, after the Ombudsman had notified them that their responsibility also applied to minors.

Anne, 15 years, told us that she wanted work experience on a passenger ship during the school year work-experience weeks. However, the ship owners would hire boys her age, but not girls, the age limit for girls being 18 years. Since neither the boys nor the girls did hard physical work, there seemed to be no reason for the distinction. The Ombudsman questioned the decision and was told that the company did not want to be responsible for the morals of the girls. The problem was sent to the Ombudsman for Equal Status and the rules were changed.

2.5.3.4. *Children as customers and members*

The "Bottle refund" cases illustrate better than many a discrimination of children where no such "special treatment" is warranted. Children, returning bottles for refunds, are given sweets instead of cash.

> *"I'm not allowed to eat sweets, I'm a diabetic," said Mette, adding that "when I say my hair falls out, it's O.K., but if I say I'm a diabetic, they just say "Once can't hurt you, can it?".*
> *"I want the money because I'm saving up for a new bike", said Per.*
> *"I don't like sweets, I'd rather have some fruit", said Arne.*

Which adult would be offered - or accept - sweets in return for bottles? Most of these cases were solved by sending a letter (with the official Norwegian Seal on it) to the child, quoting the regulations giving anybody the right to cash refunds. The child, showing the storekeeper the letter, usually got cash. But one class of 12-year-olds, having investigated all the stores in the neighborhood, had to threaten to expose the shopkeepers in the local paper before the most stubborn ones gave in, to what was a documented legal right of *all* customers.

Lack of knowledge could be the cause for a different discrimination.

> *Two 13-year-old girls complained that while they paid the full adult fees for entrance in the municipal swimming pool, they were not allowed the "adult privilege" of cabinets in which to undress, but were referred to the communal dressing room. Explaining the modesty of puberty girls, the Ombudsman asked that the girls be given cabinets when available, or that they at least - if this were not possible - should be charged as children when treated as children. The director was outraged. But the local papers supported the girls' and the Ombudsman's claim, and the municipal Council finally ruled in their favor.*

A different municipality also changed the rules of its pool, according to which children over the age of 3 had to use the dressing rooms of the same sex. This made it impossible for mothers to take their small sons (or fathers their daughters) to the pool. In accordance with the suggestion of the Ombudsman the age limit was raised to six, when most children manage to dress and undress with little help, even in winter.

A different kind of discrimination was found in a city where the adult football teams held their practice on the neighborhood fields, while the children's teams had to cross the city to get to practice.

Cases such as these may seem unimportant. But their solutions do make a difference to children, and they all reflect, in different ways, how the needs of children and their right to equality are too easily set aside or forgotten. How difficult it can be to really give the children equal rights all the way was also demonstrated by Beate (14): She had, following a project where the children in a housing cooperation were asked for opinions on how to improve conditions for children, been elected a member of the steering committee. The adults, who had been sceptical to asking the children, were reluctantly impressed by the quality of their suggestions, resisting at first to follow them up. The adult difficulties in listening to children and taking their viewpoints seriously are well known. So the Ombudsman Office was delighted to hear that a 14-year-old had been elected. Delight was dampened by the fact that she was *not* given the right to vote - the only member of the committee who did not have this right. Pointing to the unreasonable position she was in, the Ombudsman suggested change and the adults agreed.

A special kind of discrimination appeared in an area of particular concern to many children.

> *Harald, 12, had a dog which had been caught chasing some sheep. According to Norwegian law, the dog can then be shot on the spot. This had not been done; and according to Harald's psychiatrist the dog was particularly important to the boy. The Ombudsman could not question the statement, but did appeal to the sheep owner, who wanted to have the police shoot the dog. There is no similar reaction allowed against a dog that molests a child. The Ombudsman asked for leniency on the part of the farmer, and also pointed out to the Ministry of Justice that sheep have better protection than children do. The outcome of Harald's case is un-known. The request to the Ministry brought on a discussion of whether or not children are protected in these cases by the Penal Code. No final clarification had appeared by May 1990.*

A final pet case illustrates that the Ombudsman did not always side with the children. A group of girls reported that the neighbors wanted to kill their cats, partly because the cats soiled the neighborhood's sandboxes. The rules of the cooperative clearly stated that cats were not allowed, while this cooperative did allow dogs. The Ombudsman asked how the parents could have allowed them to keep the cats, because at least the parents should know that this was not allowed. Also, the Ombudsman pointed out that breaking rules was not the right way to go about changing them, suggesting that the children ask for a meeting with the board. The children were informed of new evidence from a municipal vetrinary who had investigated all the sandboxes in his community and found that cats do not increase the danger of contamination or the spreading of disease, even if they at times use the sandboxes. The children followed the advice, and the rules were changed to allow cats within reason (one cat per family and no more).

2.5.4. PROBLEMS FOR FURTHER CONSIDERATION

2.5.4.1. *Television*

Training of teachers and information to parents should include measures that can help mitigate the negative effects of TV violence, by labeling a model's behaviour, as demonstrated with four-year-olds by Coates & Hartup (1969) and by role playing as demonstrated with elementary school children (Staub 1971).

Information is available about how TV programmes can be made in such a way that prosocial behaviour is encouraged. But two issues remain unsolved: Who decides what is prosocial? Attempting to sway children in any direction involves value judgement which may not meet with agreement in society. In my view attitudes of human rights values, such as the equal value of different kinds of people should in any case be better than the (unplanned and) undiserable emphasis now placed on violence and on the unintentional message of discrimination now prevalent in programmes for children.

The other question is how to convince TV producers to produce more of the kinds of programmes preferable for children and in such a way that these programmes become more attractive to children than advertisements and the types of programmes children often prefer, but gain little benefit from watching.

A final question is how to convince parents that TV is not always the best intellectual and social diet for their children. Conversation, story-telling and joint activities are easily lost if parents do not believe that their contributions can compete with what is offered by the "TV-professionals" or when parents do not realize the value of sharing and discussing what the children watch.

2.5.4.2. *Products for children*

Enough is known about dangers of products for children. So the main issue is how to convince productmakers to decline production of these products. Price may be a decisive factor, but apart from the possible Swedish ban on violence products, I know of no measures taken to reduce proliferation of such hazards.

2.6. Children and planning

2.6.1. BASIC CONSIDERATIONS

Children need outdoor space, for play, explorative learning, and social activities. The needs for space and adult supervision change as children grow. For development of spatial, body and mathematical/verbal competencies, small children need to be able to investigate the elements; space, sand, water, stones, and sticks, what can be done with them and what happens when different actions are taken, by the individual child or by a small group. They often need adults or older children with whom they can get in touch quickly. This is one of the reasons for staying close to home. Also, it is close to their home and around doors and entrances they have the greatest opportunity of coming into contact with adults at all. Recent research (Tiller 1983) shows that Norwegian preschool age children use a much wider range of adults for contact and help than was previously recognized. A third reason may be that due to traffic dangers children are often forbidden to go far from home.

A variety of studies of the way children play outdoors indicate that an overwhelming proportion of the games children play take place close to the front entrance of their homes. The radius of activity is limited: Norwegian studies (Kolbenstvedt & Strand 1978) show that children under the age of four years spend their time within 100 metres from their front door. Up to the age of eight years the radius of activity is less than 200 metres, and more than half of all 13-to-16 year-olds stay within 300 metres of the entrance of their home when they are outside. About three-quarters of all children play close to their home regardless of the degree of housing density, type of housing, layout, traffic system and of the age of the children. (Kolbenstvedt & Strand 1978).

Gross motor activity includes running, swinging, and climbing, but the space needed by small children for these exercises is much smaller than the space and "equipment" (including cars, trees, garbage-pails and garage-roofs) used by older children. Activity studies (Kolbenstvedt & Strand 1987) show that children primarily use the hard surfaces in an area for play, partly because of the location in relation to entrances and playgrounds. But even when grassy expanses are available, hard surfaces are used most, because they can generally be used for a wide variety of the activities of school age children and because adults pass through these areas. In older urban neighbourhoods up to 60% of the children play on roads and sidewalks, compared with 40% of the children in residential areas with single-family housing. In suburban apartment housing estates, only 10% of the children are seen to play on roads.

Other studies (Verktøykassa 1983; Kolbenstvedt & Strand 1978) show that loose equipment and items not specifically designed for play are more popular than standard playground equipment. Only 10% of the preschool children are observed using playground equipment. At the very most half of all children on a playground use the fixtures located there, and then exactly for the purpose for which it is designed. This equipment allows little scope for variation or combinations of activities and quickly loses its challenge. The loose equipment children most frequently use are bicycles and balls, but also railings, litter bins, bars put up for carpet-beating or laundry, benches, poles and garages. The older the children, the more often they use some of these implements.

All children need to be safe, but traffic close to or in the actual play area is dangerous. Norwegian traffic accident frequency is very high (see page 93-94), even based on official statistics. Research with children as an important group of interviewees (Kolbenstvedt 1986) indicates that statistics are poor, and that there are up to 2 1/2 times as many traffic accidents leading to hospitalization as those reported. Eighty-five per cent of the most seriously wounded and only 20% of the lesser are included in hospital numbers. Particularly accidents to children on bicycles and children who are alone when the accident happens are poorly reported.

Official statistics (NOMESKO 1986; Nedland and Lie 1986) show that nearly 1100 children are killed or hurt annually in traffic. Forty per cent of all accidental deaths happen in traffic. Ten per cent of traffic accidents happen when the children are on their way to school, 90% happen when children are playing near their homes or are on their way to leisure time activities or friends.

For the age group three to six years, Norway had 54% higher numbers of children killed or hurt in traffic in 1986 than Sweden had. The numbers were 10% higher for the seven- to fourteen year-olds and 37% higher for the 15-17 year olds.

Scandinavian research (e.g. Sandels 1968; Lie 1985; Socialdepartementet 1979) also indicates why accidents happen. Preschool age children cannot judge whether a car is coming or going, how fast it is going, and they believe cars can be stopped instantly. Being small they cannot see hazards seen by adults and they forget traffic hazards when absorbed in other activities, dashing into the street for a ball or chasing a cat. They may misconstrue the meanings of signs, for example, that children should run across streets where the sign near a school shows children without both feet on the ground. Ability to perceive and judge traffic situations improves as children mature, but even up to the age of 12 or 13 years, perceptual and motor development is not good enough to manage a bicycle in traffic (even if the youngsters hotly deny that there may be things they cannot see, situations they cannot master).

Accidents are not only due to the immaturity of children. Planning which leads to play in the streets is another reason. Also adult behaviour in traffic (for example, when adults do not respect speed limits or pedestrian (no cars) areas) increases the danger of traffic accidents. Measures which can prevent road traffic accidents are not established.

2.6.2. EXISTING SYSTEM CONCERNING URBAN AND RURAL PLANNING

Each municipality has a Municipal Building and Planning Board. The Building Board is a high prestige committee and, therefore, mostly consists of male politicians with long experience (NOU 1982: 28). Representatives of the administration, including the health sector and the local veterinary are required to be present at Board meetings, but do not have the right to vote. The relevant legislation is the Building and Planning Act and a series of regulations, defining, for example, what is needed in buildings for fire prevention, the space needed between buildings etc. The Building and Planning Act had no special requirements regarding the needs of children, nor was the presence of any representative of the interests of children required until 1990.

Other legislation with importance to children, but without special provisions are the Traffic Act, the standards for roads, safety requirements in cars etc.

The Ministry of Environment and the Ministry of Local Government and Labour Affairs share the responsibility on the national level for this sector.

2.6.3. COMPLAINTS AND CONSEQUENCES

Rural and urban planning was the only area specifically mentioned as a possible field of work for the Ombudsman in the proposals for establishing the office. It includes all levels of planning for the physical conditions pertaining to children, from overall development plans of municipalities to conditions in a small area, for example, the destruction of a playground. Traffic problems, arising from increased traffic or poor planning, accident prevention, pollution and environmental issues also belong in this area.

In this area - as in others - it is necessary to keep in mind that the Ombudsman receives hardly anything but *complaints*. Good planning, good efforts for children, are not reported to the Office. The complaints may, of course, represent a minority of actions, carried out by a small group of politicians. The picture of society thus obtained may therefore be faulty. But the problems and attitudes are nevertheless real.

The number of complaints was stable from 1982-1987.

Table 30. Problems raised in problem area "Children and planning".

	1982	1983	1984	1985	1986	1987	1988	1989
General physical planning surveys	7	12	8	5	7	10	10	7
New housing areas	8	3	6	8	5	7	5	2
Existing housing areas	30	22	21	25	32	37	26	22
Roads and streets traffic safety	25	42	45	40	49	48	21	28
Completion of plans	15	26	31	13	9	15	8	13
Miscellaneous	10	13	6	7	10	6	2	2
Total	95	118	117	98	112	113	72	74

This constituted around 14% of the total number of both adult and children's complaints. The sharp decrease the next year (1988) was a consequence of the new rules pertaining to these problems, announced to be completed that year (but actually presented in August 1989). The Ombudsman therefore either referred these complaints to the Ministry of Environment, as responsible for the new rules or gave information about them, in both cases classifying the inquiry as "guidance", a "non-case" complaint.

Table 31.

Year	Total all cases			Total problem area				
	T	A	C	T*	A**	%	C***	%
1982	763	621	142	95	74	11,9	21	14,8
1983	830	727	103	118	101	13,9	17	16,5
1984	820	726	94	117	106	14,6	11	11,7
1985	830	727	71	98	92	12,7	6	8,5
1986	855	766	79	112	102	13,3	10	12,7
1987	877	719	78	113	104	13,0	9	11,5
1988	961	896	65	72	70	7,8	2	3,1
1989	1004	908	96	74	69	7,6	5	5,2

T* = total of all cases in problem area.

A = total of adult cases in problem area, % of total annual number of adult cases.**

C* = total of children's cases in problem area, % of total annual number of children's cases.**

Complaints from children were very similar to the complaints from adults, but often more specific and concrete. Adults would complain of a proposed plan or the way a plan was handled by the politicians, i.e. the Building Board or Municipal Council. Children would say: "They (unspecified who) are wrecking our coasting (or skiing or ball-field)!". Children of school age were frequent complainants, reflecting their widening range of activities, but also the lack of planning for these age-groups. Small children are often well provided for, with sand-boxes and play equipment close to the house. School age and teenage Norwegians have few places for activities other than organized sports, excepting the woods and mountains within reach. Transportation is increasingly necessary to reach these natural resources. Even if the distance is reasonable, getting there can be dangerous because of traffic. A common complaint from children was that a new highway would prevent them from using a natural activity area. So Norwegian children are right when they complain of a lack of *available* space. The parking lots and streets, hard and flat, can be - and are - used for many games, but are hardly the safest places for children and cannot replace natural play areas such as woods and open fields.

Most of the complaints concerned traffic problems, planning of traffic and the consequences of these plans for children. It is difficult to separate problems of planning and traffic. Poor planning so often leads to traffic problems. But even if they overlap, there are other problems resulting from a neglect of children's interests, not resulting in actual traffic problems. When complaints pertaining to municipal areas or plans were received, the Ombudsman always asked for the documents of the municipality, to check what had been said about the interests of children. Often the municipal technical administration and the politicians had neglected children, simply because they did not have the relevant knowledge.

The cases showed that:

- Playareas are often used for other purposes, such as shopping centers or parking lots, often being considered as "spare space" in the plans for an area, to be taken (and easily) for something else when need arises.
- There often are no play areas in existing housing areas or in the plans for new developments.
- Play areas and other areas for children are often located in unsuitable places.
- Play areas are not completed according to plans, but postponed, often repeatedly, considered less important than other projects.
- New roads and streets are built too close to housing or play areas.
- The increase of traffic in a housing area, as a consequence of other developments, for example, a new shopping center or housing project, is not sufficiently considered.
- Traffic accident prevention measures are removed or not established if in conflict with adult interests.

There was during my years in office an increasing resistance to planning housing areas in such a way that children and traffic were separated, a fact which was made clear at a seminar held by the Ombudsman for planning experts in 1986 (Annual report of Ombudsman 1986).

> *A group of children lived in apartment houses around a free area, but were not allowed to play there. The zoning regulations indicated that the area was for play and outdoor activities. But the adults in the housing cooperation had first put in a lawn, with a sign "Do not step on the grass". Then they had planted thorny rose bushes all over the area. The parents, in minority in the board, had protested to no avail. The Ombudsman informed the board of children's needs for areas close to their homes, but also criticized the municipal Building Control for accepting a way of using the area which did not conform with the building permit. The Building Control replied that it was expecting an application for changing the regulations. The Ombudsman replied that a change of rules should have preceded the actual change of use, and that the public authority must be responsible for protecting the children's interests, in spite of the board decision, even if the board seemed to represent a majority. Each family, regardless of size, was represented by one person, all adults. If the children were included in the number to be represented and not only the number of households the majority would be dubious indeed. The Ombudsman suggested a meeting between the building control and the inhabitants, which resulted in a new plan for the area combining the needs of the children and the adult wish for a more park-like area.*

Parents are not always victims:

> *In another part of the country the free area was encircled by rows of small houses, each with a small back yard, separated from the "ball- and play-area" by low fences. The owners had planted bushes on the outside of the fences, then moved the fences outside the bushes. This was repeated several times. Each*

> *back yard thus had gained territory, but the children had lost theirs. There was hardly space for a sandbox left. Then the owners applied for ownership and a change of the rules for the area. The Building Board accepted the application, on the grounds that now the owners had already acquired the area, so "the map should be changed to suit the territory".*

In other plans children's interests may be remembered, but not considered very important:

> *A group of children sent a map where they had outlined the planned play area. The intended play area was dotted with little blue lines, showing that it was planned on a marsh, so wet that even in summer the children had to wear rubber boots to get across it. The municipality had no plans for draining, but commented in their descriptive documents, received by the Ombudsman on request, that "this area would be too expensive to build on, due to the foundation costs involved".*
>
> *A third group of children sent the documents of a planned housing area, where the area designated for children was thus described: "This area can well be used for play and children's outdoor activities. It cannot be used for any other purpose, it is too steep and there is a constant danger of landslides".*
>
> *A fourth group of children complained of a waste disposal plant being built close to their school, while a group of parents protested the location of a new nursery school/kindergarten in the "buffer-zone" between a waste plant and their houses, where the description in the documents read: "This area is, because of the smell and smoke, unsuitable for human habitation".*
>
> *In a different part of the country a kindergarten was planned close to a very busy road. The noise level was too high, so the county administration and the municipal health authorities had turned down the plan. The municipal kindergarten board asked the municipality to consider five alternative locations. The*

Municipal Council voted to build the kindergarten there anyway. In a very similar case, the health authorities had repeatedly demanded measures to reduce the noise-level from a main road close to a nursery school, but the municipality still kept extending the temporary permission to use the house as an institution for children. In a third example the fumes from the highway caused a very unpleasant smell in the kindergarten. Measurements and analyses of the gas were done six feet from the ground. On the advice of the Ombudsman the parents insisted on measurements two to three feet from the ground, demonstrating that the content of lead was much higher at the lower level. (In a similar case in Sweden, the children went to court, suing for damages after a main road had been built close to their day-care institution. And at least one child won).

2.6.3.1. *Traffic*

A group of children wrote:

> *"Hi! It's really awful! We think we should be able to go to school safely! They could have set up some lights or a bridge when they took the bumps away! But our poor, poor community can't afford it. They never can afford things for children!. What if a buss-driver bumps up and down a little? Couldn't he stand that for the sake of the children? Zebra stripes are no good, the cars don't stop anyway, but go ahead like they were in a race. The buss drivers should think twice before they complained! What if they had to stand and wait and wait and wait to cross the road! WE DON'T WANT TO DIE UNDER THE WHEELS OF CARS! Greetings from a group of angry school-children".*[1]

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[1] Number of cars and children.

	Children	Cars	Ratio
1950	800.000	120.000	0.15
1988	1.000.000	1.900.000	1.9
2000	840.000	2.500.000	3.0

Based on present birthrate.

The "sleeping policemen" aimed at supplementing the signs had been removed after protests from the bus drivers' union, which had succeeded in gaining the removal of other road humps in the same area the year before. The Ombudsman had referred to reports indicating the necessity of speed reductions by physical means, and the road humps were replaced. The expense of removing the humps was equal to the expense of replacing them. When the second complaint came, the Ombudsman asked for confirmation from the Labor Control Board of the drivers' argument that the road humps led to painful back and shoulder conditions. The Labor Control Board answered that there was no documentation that they led to back troubles, when crossed at reasonable speeds. Existing back trouble might possibly be aggravated. This was an important clarification, because bus driver unions all over the country were using the argument to have such road humps removed.

In 1983 the first hearing statements on traffic and traffic accident prevention concerned age limits for driving motorized bicycles (where the proposal was to allow this for 14- and 15-year-olds, but not in traffic). The Ombudsman questioned the feasibility of this, referring to the high accident rate for young people and being afraid that "practice driving" would in a sense "legalize" traffic driving as well. In 1985, the Ombudsman suggested compulsory driving lessons for driving motorized bicycles, which became a requirement to get a license in 1987.

In 1984 the Ombudsman suggested safety belts for all passengers in cars, including children. Only passengers over 15 years of age were required to use belts, back seat belts being required from 1985. The suggestion met no response from the Traffic Authorities, until it had been repeated in 1984, 1985, 1986 and 1987. Then in 1988 safety belts for children over 12 and under one year was proposed. The Ombudsman again suggested belts or other safety measures for *all* children, and the proposal was changed, to include children over six or under three years of age. Finally, the top Traffic Director had to admit publicly, in a radio "duel" with the Ombudsman that the accident rate for passengers was highest for children between three and six, the proposal and the rules were changed to include all children, but only in relatively new cars. (Many parents drive old cars, particularly the "second car" mostly used for transportation of children). The driver was made responsible for all passengers, for example the children from a nursery school or kindergarten, much to the annoyance of some taxi drivers. (One even threw me out of his taxi when he realized who his passenger was). The taxi drivers' union, however, supported the new ruling.

2.6.3.2. *Principle issues in the planning process*

Many cases clearly illustrated that local politicians were not actually against children, they simply do not know enough about the needs of children. Many non-politicians were staggered by the municipal system, so when parents groups, for example, wanted to do something about the conditions for their children, they did not know where to go, how to go about it. For these reasons, information is important. The Ombudsman gave as much factual information as possible when giving opinions to municipalities and as hearing statements. These were circulated widely. But the Ombudsman also took other initiatives. After seeing a series of articles in the monthly magazine of the Norwegian Housewives Association on how to improve traffic conditions locally, the Ombudsman suggested that these articles be published for wider use. With the Ombudsman as a coordinating umbrella, five ministries and 11 organizations cooperated to publish a small book based on the articles in 1985, to be sold from newsstands as well as bookstores and through the many organizations.

Lack of clear-cut responsibility, of planning capacity and of clear guidelines are elements which weaken the interests of children in planning. Lack of interest in giving the needs of children priority - or even consideration - is an obvious problem too. Also, areas for children do not provide the financial advantages that housing, shopping centers or public buildings do.

In countless cases the municipality would reply to a question or statement from the Ombudsman: "You may be right, perhaps we did forget the playground, but it is too late. The plans have gone too far to be changed now".

A series of projects to bring attention to the role of the physical environment for children had been initiated in 1979, the International Year of the Child. One of the key people was "second-in-command" at the Ombudsman Office from 1982 to 1985, the other was a member of the Advisory Panel from 1985 to 1989.

As early as 1982 the Ombudsman, in connection with a hearing statement on "Simplifications in the building/planning process" pointed out that clear rules and guidelines instead of unclear ones can be a simplification in itself. The Office also suggested that a representative of the interests of children should be appointed to attend meetings of the Building Board, with special responsibility for seeing that the interests of children were included from the very beginning of the planning process. We thought this would be an obvious improvement, but the idea was not accepted until 1989. In the meantime we pointed out that children's interests should be at least as important as the interests of sheep, horses, and sausages, all represented by the municipal veterinary, who in addition to conditions for animals also is responsible for sanitary conditions in food production, for example sausages. We also proposed rules for compensation to children when play areas were used for other purposes.

These general points of view were repeated in 1983, 1984, 1985, 1986 in various hearing statements. In 1983 the Office also suggested national guidelines or regulations for how the interests of children could be taken care of in all municipal planning. General municipal development plans should include not only analyses of the plan's consequences for the labor market, the traffic situation, the municipal housing situation, and municipal environment, but also the consequences, social as well as practical, for children.

In the annual report for 1983 the Ombudsman suggested umbrella legislation to outline minimum requirements for conditions for children. (See page 318). In 1985 the Ombudsman suggested that the cost of establishing areas for children should be reimbursed to the owners or builders by dividing it between the number of households in the area. Some buildings not covered by the Building regulations, i.e. out-buildings on farms, should be included, to give grounds for accident prevention rulings.

In 1985 the Ombudsman invited representatives of five ministries to discuss children's interests in planning and the need for measures and coordination in this area. Recognizing the difficulties in getting legislation or financial control in such matters, the need for information and other measures are all the more pressing. The Ombudsman, on the basis of the experiences of the past years, suggested that some superior authority (e.g. the county governor) might be authorized to stop plans if the interests of children had been neglected. This would counteract the tendencies and consequences of bringing up the interests of children when it was already "too late".

It was also evident that children have no strong organizations or interest groups, which seemed particularly important in the technical planning sector. In 1988 the Ministry of Environment appointed a working group, with the Ombudsman (represented by the Head of Division) as one member, the previous "second-in-command" at the Ombudsman's Office as one of the other members, to propose amendments of the Building and Planning Act and new national guidelines for considering children in all municipal planning. The many statements of the Ombudsman Office were an important source of material for the group, which presented its proposals early in 1989. The amendment of the Building and Planning Act was accepted by the Storting in the Spring of 1989, so that after September 1, 1989 all municipal

Building Boards must include a representative particularly responsible for children. The new national guidelines went into force in January 1990.

2.6.4. CONCLUSIONS AND FURTHER PROBLEMS

Freeman (1988) claims that one outcome of taking the rights of children seriously would be the inclusion of a child impact statement in every plan in every community. This is, I believe, exactly what the new guidelines for municipal planning should imply. It is still too soon to know how this will effect conditions for children. But the developments in this area should be followed closely. Preferably a research institution (for example the Norwegian Institute for Building Research) should be charged with the responsibility for this research as soon as possible. In addition to investigating how the guidelines are used, whether or not decisions are turned down by county authorities if the child impact statement is missing, the choice of representative (adminstrative or politician, profession and background) would be worth looking into, as well as how the representative functions as a contactpoint with children and adults in the community.

Another area of research is the participation of children in the planning process. Pilot projects have demonstrated children's superior knowledge of traffic hazards and play areas. Further research should lead to practicable ways to involve children routinely in projects related to their environments.

2.7. Structures determining conditions for children

As outlined in several sub-chapters of Chapter Five, cases of general interest often led to proposals of changes in existing legislation, rules or procedures, while individual cases attempted to change conditions for an individual child or a circumscribed group of children. It was, however, increasingly clear that there were weaknesses in the organization of systems and structures affecting children and families. Responsibility for children was often split amongst sectors. An overall view of conditions for children was often lacking. In Norway at least half of the total number of ministries (17) had responsibility for children. The Ministries of Education, Health and Social Affairs and of Consumer Affairs and Government Administration were the most important ones. But the Ministries of Justice, Finance, Environment, Local Government and Labour, Science and Cultural Affairs, even the Ministries of Defence, Foreign Affairs and of Oil and Energy had responsibilities for matters that pertained to or impinged on children. This diffusion of responsibility on the national level was reflected in the political and adminstrative structures on the county and municipal levels.

Development of societal change should not further weaken possibilities for protecting the interests of children. On the contrary, existing systems and structures should be strengthened, or new structures added, to infuse consideration of children in every area. To do this effectively, however, an overall understanding was needed, on which a coordinated effort for improvement could be based.

The development of local independence in Norway was one trend which might have positive and negative consequences for children. The 438 municipalities, 252 with less than 5.000 people, only 97 with more than 10.000 inhabitants, should give easy access to all sectors, with intimate knowledge of local conditions, with politicians very much aware of what was going on, and with voters who could keep a close eye on - and confront - their local decisionmakers with what was being done. This was the philosophy of increasing local independence, e.g. when the Ministry of Local Government and Labour proposed block grants to the municipalities. About 100 different allotments, many earmarked for special purposes, led to State control of many local activities, and also secured equal standards of school, special education, and other measures for children. Nearly all these allotments were put together as one block.

The Ombudsman for Children was the only institution looking at the proposal solely from the viewpoint of its impact on children. The opinion of the Ombudsman was that this new arrangement opened possibilities for depriving children in particular. Very, very few measures for children are mandatory for the municipalities. When the municipality is legally obliged to meet certain demands, these rarely involve standards. The municipality is responsible for schools, but nothing binding is said about their quality, except the minimum number of hours per child per year and the maximum number of children to a class. Nursery schools and kindergartens are not mandatory. The municipality must have a development plan, but has no obligation to stick to it, implementation can be postponed indefinitely. Play areas were not a legal requirement, nor were youth clubs or other leisure time facilities. Even the municipality's obligations in child welfare might be questioned (and really was, see page 265-266).

In the choice between measures for children and other purposes, local politicians are often in a difficult situation. They "love children", but are on an average people over 40-45 years of age, they have old parents and their own old age in front of them. So, when they have to choose between an institution for the elderly or one for children, children are bound to lose.

In order to secure equal opportunities for children all over the country, there are a limited number of possible measures. One is the use of legislation, making requirements for children binding to the municipalities. The other is financial, earmarking funds for certain purposes. The third is a combination of the two. The Ombudsman suggested five grants to the municipalities, one for schools, the second for other child-related purposes, the third, fourth and fifth for elderly and social welfare, culture, and technical expenses. I was, of course, challenged for my lack of faith in local politicians. Hoping that they would learn and that they would be challenged by their constituencies, I still did not want the "cows to die while the grass grew". No issue would be too difficult to manage as long as the municipalities (this was in the "oil-boom"-period) had funds enough for everything they wanted to do. In that case sectorial blocks would cause no difficulties either.

However, the proposals of the Ombudsman Office led to no changes. One-block grants were introduced in 1985. Information collected later (reported at the Advisory Panel meeting in 1988) seems to indicate that in a tight financial situation, the measures and projects that suffer most are nursery schools and kindergartens (where not only new ones are postponed, but ones in use are being closed down or reduced), culture budgets (which include youth clubs and organizations), and the quality of schools, where particularly transportation costs (transferred to county responsibility/budgets) encourage municipalities to close schools.

2.7.1. SHOULD LOCAL STRUCTURES BE CHANGED?

In local elections every four years, the population can challenge or change the composition of local political structures. Another way of challenging local decisions may be to appeal them to county authorities - if the county is empowered to send an issue back for reconsideration or revoke a municipal decision. A third way to strengthen the position of weak groups is the change the structures taking care of their interests. If existing structures are not adequate to protect the interests of weak groups, the responsibility for these groups must be strengthened by reorganizing existing structures or establishing new ones.

The Ombudsman made proposals in all of these directions. The first proposals of changes in the local administration concerned responsibility for the schools. The Ombudsman stated on principle that schools are a national responsibility, not only the responsibility of municipalities (compulsory schools) and counties (top level secondary schools). The county school administration should have a superior responsibility, to give parents and others (e.g. children) a possibility to appeal decisions made on a local level, and also to have some guarantee that the municipalities of the county offered equal education opportunities to the children.

In the hearing statement in 1986 on the proposal for a new "Social Services Act" and elsewhere the Ombudsman emphasized the necessity of a municipal board responsible for conditions for children, a responsibility of the child welfare boards according to the Child Welfare Act from 1959, but not included in the new Bill.

The Ombudsman proposed two alternatives:

- A Child Welfare Board separate from the Social Welfare Board, responsible for preventative measures, e.g. the control of videos, checking the child aspects of zoning and planning projects, as well as the "curative" measures aimed at individual children and families, or:
- A special Board for Children's Affairs, comprised of members of other important committees, i.e. one member from the Building Board, one from the School Board, one from the Roads and Streets Committee, one from the Social Welfare and Health Board etc. With a representation like this, the Children's Board would bring together viewpoints from all sectors of municipal activity and be responsible for bringing the interests of children back to all the other committees. Such a Board would be responsible for bringing out budget information across chapters/sectors, e.g. by finding out how much money could be saved in the Child Welfare chapter by investments in the "Preschool institutions" chapter. Also, this constellation would secure that members of the Municipal Council and the

Municipal Executive Board would be involved and could follow up children's interests in the top-level decisions-making bodies.

The latter suggestion has been adopted by a few municipalities. The responsibility for general conditions for children is, according to the proposal to the Storting for the Social Services Act, an area where the Health and Social Welfare Board will have some responsibility, "must cooperate with other bodies in the work for improving conditions for children", but will no longer have an independent, superior responsibility in relation to other branches of the local administration.[1]

2.7.2. A "Conditions for Children Code?" A new Ministry?

In 1983, the Ombudsman suggested umbrella legislation: a "Conditions for Children Code". The idea was not new, it had been proposed in 1975 and 1977, but not adopted. The Ombudsman took the first paragraphs of the "Labor Protection Act", exchanging the word "employer" with "adult" and "employee" with "children", these paragraphs thus giving a fair description of the possible aims of such a Code. The idea was picked up later by several committees appointed to report to the Council of State or Storting. The committee preparing the "Free time Day Care Report" suggested pooling the School Act, the Kindergarten Act, a new Free time Day Care Act and a new Culture for Children Act, thus building the Code for Children's Conditions. The committee on Family and Parents Education in its conclusions pointed to the need for a comprehensive Code of this kind without specifying its contents further. One interesting development was that the suggestion was repeated with increasing frequency and by groups of an increasing political variety.

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[1] As mentioned on page 265, (footnote 3), the Bill has been withdrawn, according to the Minister to be able to strengthen the interests of children. What the new Bill will contain is un-known at present.

One difficulty in establishing such a Code would naturally lie in defining its contents. Should it e.g. incorporate the School Acts or should it just give a general statement on conditions which would also be applicable in the schools, without including the other aims and goals of education? For the Ombudsman one aim of the proposal was to focus the lack of rights for children. So even the fact that the suggestion was taken seriously by such a variety of politicians was in itself a step in the right direction, increasing awareness of the situation for children. The Ombudsman, pointing to these developments, repeated the suggestion in 1986.

As noted in Chapter Four, the Ombudsman for Children does not have a clearly defined domain of jurisdiction. Such a wide, in many respects unclear mandate makes it difficult to evaluate development, a well-defined frame of reference is missing. A "Conditions for Children Code" could be such an instrument for the Ombudsman for Children, who could investigate breaches and defend the Code in a way similar to the Equal Status Act and the Ombudsperson for Equal Status. Such a Code might also serve as a guide to the choice of issues to be priorities for action. (The new Convention on the Rights of the Child and the guidelines of the Expert Committee may become just this kind of useful tool for the Ombudsman for Children).

The proposal was not pursued further. But its purpose might be taken care of by other means. The Ombudsman in August 1988 suggested creating a Ministry for Children, Youth, and Families. If a "Conditions for Children Code" were established, it would naturally be the responsibility of such a new Ministry. On the other hand, if a Ministry were established, the Ministry could propose a new Code.

The basis for proposing a new Ministry was mainly that responsibility for children and conditions pertaining to children is shared - or pulverized - by at least 8-9 ministries. The same picture appears on the local level. The Ombudsman therefore suggested that responsibility for children, with the exception of education, should be separated out of the other ministries and collected in one new ministry. Preschool, grade school and secondary school should be incorporated in the Ministry of Education, no longer split between 2-3 ministries. The new ministry would secure that a member of the Council of State would be particularly responsible for children and families, with a budget and a coordinating administration that these issues so far did not have.

As an alternative, well aware that the organization of a new ministry might take time, the Ombudsman suggested a cross-ministerial coordinating body, a Directorate for Children and Families. A Directorate is an administrative/professional office, concerned with a specified area, so it would not give these issues a place in the Council of State, but at least secure a better coordination between efforts and measures suggested by the various ministries, and also pick up issues that were "lost" between various branches of the administration.

The proposals were sent to 60 organizations for opinions. None supported the Ministry idea, but all replies indicated an understanding of the basis for the proposal, and agreed that something must be done to improve the situation. Many supported the idea of a Directorate. A summary of the viewpoints was sent to the Prime Minister and other members of the Council of State just two weeks before the change of ombudsman.[2]

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[2] With the change of Council of State after general elections in September, 1989, the new Council of State reorganized the ministries. Consumer Affairs and Government Administration Ministry was split into a Ministry of Labor and Public Administration and a Family and Consumer Ministry. The latter will be responsible for many of the issues now in the hands of the Ministry of Health and Social Affairs, the Ministry of Justice, a.o. The Ministry of Church and Education is now a new Ministry of Education, while church matters are transferred to a new Ministry of Culture and Church. To me these reorganizations seem to be steps in the direction of a Ministry for Children, Youth and Families.

CHAPTER SIX

Looking Back

Introduction

This chapter attempts to describe changes which occured during the first eight year period, in terms of public opinion, the first goals set by the Office itself, and in relationships to those the Office was established to serve or to influence. Analysis based on my own experiences and impressions are combined with outside evaluations done at the end of or immediately after my term in office expired in September 1989, and seen in relation to visible and less visible results.

1. Evaluation problems

Particularly in international or foreign fora, someone is bound to ask: "Has it worked?" or "Has the Office had any kind of effect?" or "Are conditions for children any better than they would have been without the Ombudsman?".
Such questions have no simple answers. Like a doctor treating a patient with a bad cold, it can be hard to know how quickly the patient would have recovered without the medicine, or how sick he would have been without treatment, or did he get well in spite of the medicine? Or would some other medicine have done just as well or even better? Or was the medicine good in spite of how it worked on this patient?

Work for children was not done by the Ombudsman alone. One of the aims of the Office was to keep reminding others (the Storting, ministeries, municipal administration and politicians) of *their* responsibilities. In addition the Ombudsman collaborated with individuals, groups, organizations and the mass media. Like in team games, it is hard to say which player is more important for the results of the game. The question is rather: Could the Ombudsman as one player have been taken off the field? And would the goals still have been scored? (Questions to be looked at in the next chapter are what made it work and whether it might also work in other countries).

2. 1981: New and unknown. First goals

When I was appointed ombudsman in 1981, I was aware that I was totally unknown as a public figure. In my own municipality I was known as a local politician and to some as the "preschool psychologist". But I had held no office, political or otherwise, on the county or national level. My own public image was as unclear as the image of the Office. This could be an advantage and a disadvantage. The preconceptions about what I would do were minimal and I could build up the image of the Ombudsman Office without focussing too much on the person, which was important to me. The Office was going to be permanent, I was temporary. Confidence in the Ombudsman Office must not rest solely on the person in office. On the other hand it meant starting from scratch on both counts, with some scepticism about the person as well as about the Office. This sceptisism was expressed in the newspapers when I was appointed, from right wing politicians, who commented on the appointment of a Labour Party member.

The ambivalence and divided opinions about establishing the Office is described in Chapter Four. From the beginning I was aware that expectations were confused, guidelines for the work of the Office were so wide as to be of little help. The Office could work on practically any issue concerning children (except family conflict cases and cases in the hands of the courts). This would mean that we would be under constant scrutiny, with possible accusations of overstepping our mandate and with few possibilities for demonstrating that the Office was actually doing what it was supposed to do. So I knew that regardless of what we did, we would disappoint some anticipations, live up to or exceed others.

The situation was complicated by the fact that general elections two weeks after the Ombudsman Act went into effect led to a change in the political configuration of the Storting and a new Council of State, with the parties in power that had opposed establishment. The new Prime Minister had promised, during the campaign, to abolish the Ombudsman for Children Office if his party won the elections. Our future was uncertain. My co-workers and I decided to do the best we could in whatever time we had, disregarding the expectations of others and the threat of being abolished, as best we could.

My own aims were simple: In addition to the responsibilities outlined in the Act, the merit of the Office must be established. The Ombudsman for Children was not only a vague concept, but utterly unknown to most Norwegians.[1] If the Ombudsman was to be used as intended, the Office must become a positive concept in the minds of children and adults. The other aim, at least as important, was to give the Office a clear "Child Profile", which in practical terms meant that it was first and foremost *for* children, the Ombudsman a person available *to* children.

3. Impressions and appraisals

3.1. The basis for evaluation

The Office did not have the capacity to investigate the outcome of each individual case. Trying to record results when known, information was so incidental that systematic records were impossible. Children who asked for help often called back, "I just want to tell you what happened". Politicians or administrative bodies on the municipal and county levels had no obligation to and did not routinely inform the Ombudsman of the outcome of a case nor of the use made of information or opinions. Local newspapers sometimes reported, but this information was incidental too. Outcome of individual cases could have provided a more detailed picture of which arguments were most effective, which ways of handling cases worked well, which less well, but we could not get this kind of evaluation. What we know now comes from other sources, from the experience of the Office, and from follow-up studies done later. On the national level it was possible in some cases to trace a process and follow the progress. Legislative amendments are reported in the mass media, the Office received the reports and propositions to the Storting. Thus it was possible to check how opinions and statements were used.

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[1] Even though there are more newspapers per head in Norway than anywhere else in the world, the Norwegian Press Association indicates that 80% read headlines only, 90% read headlines and captions.

Evaluation has been carried out by outsiders as well as insiders. Outsiders could get answers to questions which were difficult for me to ask, e.g. How do members of the administration, politicians on various levels, children and adults perceive the Ombudsman after eight years of work? On the other hand I had information that was not so readily available to outsiders: the reasoning behind the choices of methods, the background lobbying, the combination of factors around and in the Office which had an impact on what the Office was doing. As a Norwegian I knew how the system works, which arguments are used, and what Norwegians felt about an issue. I knew more about the effort, the need, and therefore the achievements involved in change, because these must be seen in relation to prevailing conditions within a country. For instance, the gradual increase from 22 to 28 weeks of paid leave after the birth of a child would seem very insignificant indeed to a Swede, because Swedes can stay at home with pay for 18 months. But the same change might seem definitely striking to other parents, who have no such legal rights at all. Neither Swedes nor many others have any idea about the ease - or difficulties involved in obtaining this gain. Nor is this important, except for indicating by which means such goals can be reached. And in some countries the very idea that such rights should be legislated may be incomprehensible, if these rights belong solidly within the labor negotiations, and tradition makes it impossible to imagine they might belong somewhere else.

Miljeteig-Olssen (1990) pointed to a problem which we were constantly aware of, but could do nothing about: The Ombudsman Office is the recipient of *complaints*. Therefore the Office was not informed of the good planning and beneficial developments for children. Miljeteig-Olssen may be right in saying that the Office painted the darker side of the picture of conditions for children in Norway. The staff constantly reminded each other that "There *are* happy, healthy children in Norway". But the responsibility of the Office is to point out the negative conditions and their consequences for children, and to suggest improvements. But there was a danger of suggesting improvements that were already being planned or being put into effect, a difficult "balance between being a spokesperson to whom the public pays attention and the boy who cried wolf" (Miljeteig-Olssen, 1990).

The following is a combination of the experiences of the Ombudsman and an extensive study done by Melton (1991).[2] Surveys done by Norwegian students (Winjansen et al. 1989) and a thesis by a Belgian student of criminology (Willems 1988-89) will also be included. In addition, a Norwegian opinion polling institute (Markeds- og Mediainstituttet, Oslo) working for UNICEF-Florence, included questions on the work of the Ombudsman in their omnibus survey of November 1989 (Tamsfoss, 1989).

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[2] Gary Melton, University of Nebraska, Law and Psychology Program, author of "Child Advocacy" and numerous articles on child advocacy. Fulbright scholarship autumn 1989 to study Norwegian Ombudsman for Children, connected with the Norwegian Council of Child Research. For his study of the Ombudsman, Melton followed up 9 major cases handled by the Office, interviewing senior government officials and researchers who had been identified as key persons on each case. In addition some individuals were interviewed about their general knowledge of the Ombudsman, and wideranging interviews were conducted with staff members, advisory panel members, scholars and advocates central to policy debates, altogether more than 50 informants, in addition to at least 150 children (Melton, 1991).

3.1.1. HOW DID THE PUBLIC SEE THE OFFICE IN 1989?

Our overriding goal was to help protect the interests of children and to effect change in the prevailing conditions for children. To be able to do this, people must know about the Office and feel that the Office was useful. Our *impression* was that the Office was taken seriously and was never made a "laughingstock" as other Ombudsman Offices sporadically had been. But what did Norwegians in general feel about the Ombudsman for Children in 1989? To get at least a partial answer, UNICEF Florence commissioned a poll, which comprised a random, representative, nation-wide population sample of approx. 1100 interviewees, all over 15 years of age (Tamsfoss, 1989, see translation and more extensive summary, Appendix Two).[3]

The survey shows that the Office of the Ombudsman is now well established in public opinion. Answers were free recall and no prompt was given. 74% named the Ombudsman[4] as an institution protecting the interests of children, nearly half of the total sample naming this institution *first*. Other replies were "the child welfare service" or "The Ministries". Almost 40% knew the name of the first ombudsman, 80% mentioned the name of the man who was appointed my successor two months before the survey was carried out.[5]

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[3] MMI-polls never include persons under 15 years of age. The questions about the Ombudsman were part of a larger questionnaire, including e.g. questions about products/marketing, political opinions.

[4] When asked if they knew of an institution protecting the interests of children, 63% said "Ombudsman for Children", 11% either "Ombudsman for Child Welfare" or a similar term - misnomers very common in my experience. As a speaker I was often introduced as e.g. "Ombudsman for Child Welfare".

[5] Trond Viggo Torgersen, a physician and teacher, but so well known for his work in television that no one is in doubt who the name "Trond Viggo" refers to. He also uses only his first names for his signature.

The Ombudsman Office now obviously well known, as much for the work done as for the person holding office. The MMI survey also shows that over 80% of the interviewed persons think the Office is useful, only two per cent now want to abolish it. There is little difference between political parties. Sixty-five to eighty-eight per cent of the adherents of the parties that opposed establishment now are in favor of the Office, only three to ten per cent of them advocating abolishment. Age, gender, income, family size and region of residence are unrelated to opinions about the Ombudsman Office.

3.1.2. THE CHILDREN'S PROFILE WE WANTED?

While the absolute number of complaints and requests from children was stable over the years, the relative proportion of complaints directly from children decreased, compared to the annual total of complaints. This caused concern, for outside observers as well as for the Office itself. Willems (1988/89)[6] says: "It is deplorable that the law has not stipulated explicitly that the Commissioner must make sure that he is accessible to children. It is important that they should know him. After all, it is their Commissioner".

If the law had a stipulation of this kind, it might have been easier to obtain a free telephone line or better funding for information and other public relations efforts. However, according to small, but random samples of children and young people in different parts of Norway, children do seem to know about the Office: As mentioned above, the MMI sample did not include people under 15 years of age. In the youngest age-group (15-24 years of age), 65% mention the Ombudsman as a national body protecting the interests of children (as compared to 74% of the total sample). 36% mention the Office *first*, compared to 46% of the total sample.

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[6] A Belgian criminology student who spent 3-4 months in the office in 1988, and wrote her thesis on the Norwegian Ombudsman model.

In an investigation carried out in September and October 1989 by teacher-training students in the Bergen area (Winjansen et al. 1989) 69% of their sample of 74 12-years olds had heard about the Office. 64% would trust the Office to help if they had a problem. 25% of this group knew the name of the new Ombudsman, indicating that the concept was better known than the person.

One hundred and fifty children in grades 1-6 (20 pupils per class) in the Trondheim area were interviewed by Melton (1991). Two thirds of the children in grade 1 and grade 2, three quarters in grade 3 and 4 and nearly all of the children in grade 5 and 6 had heard about the Office. Almost all of the children on all levels would ask the Ombudsman for help and could give examples of when they would do so. Most, but not all the examples concerned problems with which the Ombudsman really could be of some help.

An interesting point in both the surveys amongst children was the indication that the children had their knowledge of the Office from TV and radio. In the Trondheim survey nearly all the children said they had heard about it from TV. This was not very surprising, because these interviews were carried out after regular 10 minute programmes by the ombudsman were established. The Bergen survey was carried out before these programmes started. At that time the Office did not feel TV had been very helpful in giving information, and the most important recipients of informational material from the Office were the schools, which according to these children, were rarely the source of information.

3.2. Creating networks of partnership

The Ombudsman for Children could not function alone: The small staff in itself indicates that cooperation with others was essential. Different problems and issues required different collaborators. Since the Ombudsman is free to handle issues in any way deemed most effective, the possibilities of choice included the Council of State, the ministries, the Storting, the municipalities and counties, research institutions and universities, and non-governmental organizations, individuals as well as groups. Establishing good working relationships was essential. How did it work? What changed over the years?

3.2.1. THE STORTING

In relation to the Storting there were few contacts during the very first years. The Ombudsman did not follow the proceedings of the Storting until issues raised by, or of particular concern to the Ombudsman, reached the Storting level. Also, aware of the possibility of perceived party allegiance, there was a certain need for caution, because the Ombudsman Office should not be identified with party interests. The question was raised in the Storting in May 1982 (see page 209) and in relation to the question of reappointment after my first term (see page 344). Gradually, however, the public in general and the politicians in particular seemed to be convinced by our statements that the concern for children would override any political loyalties. For example, the opinion of the Ombudsman on the "Family Policy"-report to the Storting (1985) supported the views of seven different parties on one issue or the other.

It was interesting to note that the Conservative and Center Parties, which initially opposed the Ombudsman, asked me to speak at their meetings more often than any other party did. Participating at these meetings gave opportunities to clarify points of view and make them known to key politicians in these parties.

The parties that created the Ombudsman Office were practically absent from the list of groups asking for lectures, panel participation etc. I do not know why, but comments from key politicians might indicate that these parties felt no need to know more when the Ombudsman views coincided with their own and in cases of disagreement, felt uncomfortable with that fact and did not want the discussion.

During my last three years in office, my deputy and I were frequently invited to give opinions in the Storting, in Standing committee hearings, political groups or to individual members. On occasion I also spent days in the Storting lobbying for legislative amendments that had been put on the agenda for debate, notably the Parents and Children Act amendments on corporal punishment (See page 266) and visitation rights (see page 186) and the "threshold age" of imprisonment (see page 260). Formal and informal meetings directly and indirectly gave information about issues raised in the Storting of interest to, or on the initiative of, the Ombudsman. The invitations as well as the reactions also served as an indication of the Storting members' views of the Ombudsman office.

The Storting had established the Ombudsman for Children, but hardly made it a strong institution. A tiny staff and a very small budget caused questions about why the Storting chose to support a *weak* Ombudsman, if the Storting, in keeping the Office small, was indirectly trying to control its influence.
"It prevents the barneombud from being an effective critic" (Melton 1991). Seen against the divided opinions about creating the Office, and the general tendencies to cut public budgets, my own, less sceptical view is that the Storting just did not care enough to do something about it. This changed. Evidence that the majority in the Storting accepted the Ombudsman for Children came clearly in late 1988. The Budget proposal from the Minister of Consumer Affairs and Government Administration contained an increase of 20% from 1988 to 1989. The Storting increased the total by 23% - in a period where there was a general tendency to reduce public spending. The budget was increased again by an additional 50% for 1990. (See page 123).

3.2.2. THE COUNCIL OF STATE

The political leadership, the ministers, under-secretaries, and political advisors determine not only issues to be proposed to the Storting, but the emphasis of work done by the ministries.

Different political parties held different views on the value of legislation. This had a possible effect on proposals for amendments made by the Ombudsman. The first Council of State (conservative coalition) under which I served seemed more reluctant about using legislation as a means for change than the later Labour Council of State, judging from the reluctance of the first to propose legislation supported by the latter. The examples are few, however, since most of the proposals of the Office hardly reached the stage of Council of State support during the first few years. The picture is confused by other factors as well. Some of the difference might be due to the time needed for an idea to mature sufficiently to make the change feasible and acceptable to the majority of the people as well as to the government. The general development towards local independence counteracted wishes to control through national legislation, and the general economic development, with increasing budget difficulties on the national as well as on the local levels, made legislation with financial consequences more difficult to accept. Also, it was reasonable to expect that the Ombudsman needed time to establish credibility before the top level politicians willingly would listen to what the Office had to say.

During the first period, individual ministers from parties that had opposed the Office, e.g. the Conservative Minister of Justice Mona Røkke, would publicly support proposals, but the majority of that Council of State and the Prime Minister were more ambivalent, did not pass proposals on to the Storting and sometimes answered letters in a superficial manner.[7]

Lack of positive response determined to some degree the way I would approach a Council of State. When the Council of State changed in 1986, I did not immediately understand that it might be possible to work more closely with the new political leadership, with more initiative on my part. But it also seemed reasonable to me that this political leadership (having established the Office) would find it fairly easy to contact the Ombudsman, which they did not do.

3.2.3. THE MINISTRIES

There was a dilemma, a delicate balance, involved in the degree of closeness desirable between an institution like an Ombudsman and branches of the administration like the ministries. Being responsible for criticizing administration on all levels, it would not do to get so close to any one ministry that the Ombudsman would be identified with that ministry. This may be a general dilemma for Ombudsmen (except perhaps the Ombudsman for Public Administration, who is answerable to the Storting and not to any ministry), but in particular for one with the wide mandate of the Ombudsman for Children. On the other hand, too much distance might lead to difficulties in keeping informed. Without sufficient information about what was going on, the risk of asking for initiatives already taken, plans already in progress, and thereby increasing "the irritation effect" of the Ombudsman was clear, perhaps to a degree which could counteract other Ombudsman proposals, by defining the Ombudsman as a "nag".

The Ministry of Consumer Affairs and Government Administration was closest to the Ombudsman for several reasons.[8] This ministry handled the administrative affairs of the Ombudsman in relation to the budget and employment of top-level staff. It was the formal recipient of the Ombudsman Annual Report, and could send an observer to the meetings of the Advisory Panel. This Ministry was (and is) responsible for overall conditions for children, so the overlap in fields of interest could be very strong. According to Wiig (1981) this ministry was enthusiastic about the establishment of the Ombudsman.

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[7] The Minister of Culture and Science, when asked if he could make suggestions to protect children from the negative effects of television, replied: Have you not heard of the "Off" button?

My impression was that the Ombudsman Office had little importance and low priority in the ministry. This may not have been objectively true, but it was understandable. During the years of 1981 to 1989 there were several changes of Ministers, several re-organizations, and probably a constant frustration due to understaffing. There were few resources to work for conditions for children in general. Most of the effort went into the preschool area, also belonging to this Ministry, where several extensive law proposals and plans were made. I believe at least some of these must have been difficult for the professional preschool educators employed as civil servants in the Ministry to accept and defend in public since the proposals might well lead to reduction of quality in the preschools. The Ombudsman, unhampered by political leadership, was free to object. Another hypothesis is that having a professional of their own field as the ombudsman, may have led to a stronger feeling of intrusion or threat than they had visualized before the Office was established.

The feeling of lack of interest was engendered by a few main issues: Budget issues concerning the Ombudsman were treated with correct formality, but without enthusiasm, were presented in the preliminary documents, but not supported and therefore "carried" to the top level decision-makers. This was understandable when the ministry every day felt its own (but not the Ombudsman's) financial squeeze, but hardly encouraging. Also, there was little continuity in contacts. The persons who came as observers to our Advisory Panel meetings changed constantly, particularly after 1984.

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[8] The past tense is used here because this Ministry was renamed in 1989 to the Ministry of Family and Consumer Affairs and renamed again to The Ministry of Children and Families from January 1991. Its formal relationship to the Ombudsmen Offices has not changed.

The Ministry of Health and Social Affairs had opposed the Office, according to Wiig (1981) perhaps because an Ombudsman might be perceived as a threat by a ministry concerned with the welfare of individual children. The ministry then would have preferred strengthening local initiatives, but spokesmen now feel the establishment of the Ombudsman for Children was a wise choice (Melton, 1990) because the resources could not really have had much effect locally and because they were ready to admit that the ombudsman had done a good job. This ministry sent the Office more proposals than any other institution (25 in all) to which the Ombudsman gave opinions,[9] but was slow to answer letters and the only ministry that criticized Office procedure. These two items were connected: the Ombudsman, referring to the Public Administration Act time-limits, asked for replies to letters long after the time limit (three weeks) expired. The Ministry criticized the Ombudsman, stating that this Act did not apply between public

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[9]

Ministry of Health and Social Affairs	25
Ministry of Justice	17
Ministry of Consumer Affairs and Government Administration	16 (one turned down)
Ministry of Local Government and Labour	12
Ministry of Church and Education	9
Ministry of Science and Culture	7
Ministry of Environment	6
Ministry of Transportation	2*
Ministry of Finance	1
* Directorate of Roads (in addition)	20
Other Directorates/State Boards	19 (9 turned down)
International treaties (Ministry of Foreign Affairs)	2
Counties and municipalities	5

institutions. The Faculty of Law at the University of Oslo and the Ministry of Justice confirmed that while the issue might be debatable, it was reasonable to presume validity.

Proposals sent to the Ministry of Health and Social Affairs were rarely followed up in proposals to the Storting. This may have several reasons, one being the increased Ombudsman emphasis on preventative measures to a ministry where only 2% of the budget was for prevention. According to Melton (1991) one informant said it should be called "the Ministry of Repair" and several others described it at "unduly defensive" and "insufficiently forwardlooking". The defensiveness in relation to the Ombudsman might also be due to the invasion-and-threat-effect of having an ombudsman with as much professional experience in their field as many of the ministry civil servants (Melton 1991). And last but not least, the proposals made by the Ombudsman would, if adopted, be costly.

Again comparing the impression of the ministries with their attitudes towards establishing the Office, the Ministry of Justice was positive from the very beginning and positive all along, responded quickly to requests, met proposals with openess and understanding and seemed glad when the Ombudsman raised issues within their jurisdiction. The Ministry of Church and Education was negative to establishment, but had the same positive attitude to suggestions and cooperation.

Looking at the kinds of proposals sent to the various ministries, there are differences in the consequences of proposals. The proposals to the Ministry of Justice were amendments which would not cost a great deal of money. Giving children the right to access to both parents, raising the "imprisonment age" or making physical or psychological maltreatment illegal were important issues, but no drain on state or local budgets. The proposal for pre-divorce counseling (see page 182), if made compulsory, would involve expenses for remunerating members of the counseling groups. But many of these might already be on public payrolls, and if it turned out (as the pilot project indicated) that fewer cases would go to court, money on the total public budget would be saved.

Clarifying and strengthening the children's rights in the school system would hardly be expensive, but might have been threatening to the teachers. To provide equal quality education for every child, including special support to those who needed it, would probably have meant "earmarking" funds to the municipalities, perhaps with extra funds for sparsely populated areas. Expanding the school day so that all pupils would have a six-hour day would mean doubling the number of hours, the number of teachers and increasing the number of rooms needed for the three first age levels of elementary school. Lowering the age for starting school one year would increase the number of pupils by 50.000 each year and so would be very expensive. Adding 50.000 six-year-olds to the groups of children on the roads might in addition require more transportation or other safe-guards for children on their way to school.

Giving the child an independent right to social welfare or child welfare benefits, or reorganizing the whole child welfare system, might also be costly, although much more difficult to evaluate. Giving each child the right to preschool education and assuming that all four-, five- and six- year-olds and 50% of the three-year-olds would attend, would imply doubling the number of preschools, teachers and other staff. If all the children were to spend at least 31 hours per week in the institution, this would again double the expenses. So the proposals met with approval were generally the less costly ones, the others - the costly ones - were not resolved (nor shelved) when I left office.

In terms of different kinds of rights, the proposals which were adopted (right to access, imprisonment age, right to freedom from physical and psychological abuse) fall within the civil and political rights. The proposals which were not adopted (right to preschool education, changes in the right to school) fall in the social, cultural and economic group of human rights. Thus the pattern fits in well with one difference between the two 1966 Conventions (page 36): Civil and Political Rights were to be implemented immediately, regardless of the States Parties' resources. Economic, Social and Cultural rights were to be implemented gradually, because there was an understanding that these rights would be more of a drain on the resources of the States Parties.

Other ministries than those mentioned were quite amazed to get complaints from the Ombudsman for Children, for example the Ministry of Defence (what are the effects on children when military personnel must move every other year?) and the Ministry of Oil and Energy. The "Energy ministry" is responsible for regulations on electricity-supplies. The Ombudsman pointed out a discrepancy: It is forbidden to establish a play ground under high-voltage transmission cables, but stretching cables over a play area is quite legal. One nursery school had to be closed because the children got electric shocks from the playground equipment and also from touching the adults. Recent research (White House Report 1990) indicates that living close to high-voltage transmission cables also increases the chances of leukemia and other cancers.

3.2.4. NON-GOVERNMENTAL ORGANIZATIONS (NGO'S)

There is no doubt that the non-governmental organizations have a role in the Norwegian decision-making process. They are for instance asked for opinions (hearing statements) on proposals concerning issues of concern to the individual organization. Compared with other countries, however, there are few non-governmental organizations concerned only with child-related issues. Melton (1991) puts it this way: "it became clear to me that strong interest groups on children's issues were nonexistent in Norway, unlike the other Scandinavian countries". He continues to point out that Redd Barna (Save the Children) only started domestic advocacy in August 1989 after a task force including the ombudsman had prepared a proposal to the organization's annual meeting. "Mental Barnehjelp" is primarily an organization for parents, but rather narrowly focused on child mental health, the Norwegian Housewives Association does not have strong influence in the ministries, and "the most powerful group on children's issues probably is Norsk Larerlag (The Norwegian Teachers Association), but its role as a labor union for teachers also diminishes it as a credible defender of children's interests" (op. cit.). Not included in this description are the organizations with children as members, the political children and youth organizations, sports clubs/organizations etc. even if these can be powerful spokesmen on their own or through "Parent" organizations, such as political parties. The Ombudsman met several times with the National Council for Organizations for Young People, to inform them of the Ombudsman and to encourage them to take on this kind of challenge, suited to each one's way of working. Other organizations include children, may even have special programmes for children, within their general field of work, like the "Safe Traffic Organization" and the Norwegian Organizations for the Handicapped. Other organizations, such as UNICEF and the Church Relief Organization, work for children in other countries, but not for Norwegian children.

Non-governmental organizations in Norway rarely take over responsibility for social work or child welfare, even if some activities were originated by organizations, for example nursery schools and kindergartens and institutions for children with emotional problems. The opposite, with public services taking over what organizations have started is more common. Public services in a welfare state are expected to take responsibility for many activities carried out by organizations in other countries. Yet, there are a number of organizations, and to the Ombudsman it was obvious that many could be valuable partners in various efforts.

The general impression was that the organizations were positive when the Ombudsman suggested some kind of collaboration, but more rarely asked for support themselves. There were some exceptions, mostly small organizations that wanted the Ombudsman Office to act as the Secretariat for their own interests, if necessary to the exclusion of other issues, and were hurt when this turned out to be impossible. Other organizations were willing to cooperate on projects within their field of interest, grateful when the Ombudsman initiated contact between the organizations and between organizations and authorities. In only one case did disagreement about one issue make collaboration on other issues more difficult.

The lack of organizations could be a problem when support on a special issue was wanted, but unavailable. If for example, there had been a strong organization of the elderly, or an association of grandparents, their support could have been valuable, perhaps even tipping the balance in favor of the Ombudsman's proposal for strengthening the rights of grandparents (in connection with the child's right to visitation, see page 188).

One consideration in working with one or more non-governmental organizations was whether it would be most effective to be inside or outside the organization/group. When a group of organizations and several ministries joined forces to work for accident-prevention, the ombudsman was asked to serve on the working committee as vice-chairperson. I felt that in that capacity the Office would get valuable information and could contribute to the status as well as the work of this group. After three years, however, when I left office, I asked the working committee to consider whether the efforts of the group *in collaboration with the Ombudsman* would have a stronger effect than having the Ombudsman as a member of the group. In similar fashion I felt that the "Action for Children"-movement (which was organized by Mental Barnehjelp) might have more effect if they could say they were working with the Ombudsman Office, not having the ombudsman as a more anonymous member of its Advisory Board.

3.2.5. THE MASS MEDIA

The press was one of the Ombudsman's most valuable partners. Television and radio wanted news-spots when the Ombudsman had made a controversial statement, but rarely reported press releases, perhaps because I was reluctant to formulate "head-line-style" news. Protection of the children's identities and integrity was very much "in the way" when weekly magazines or tabloid newspapers wanted case-histories. Also, success-stories were difficult, because the development of cases often took time, so that by the time a "success" could be recorded, the beginning of the story was no longer interesting. Stories of the kind "We were desperate, went to the Ombudsman, and the day after all our problems were solved!" simply did not occur. Also, the complexity of issues, the often difficult interrelationships between children, parents and society should not, in my opinion, be over-simplified. Part of the Ombudsman's responsibility to inform must lie in pointing out the complexities and therefore the joint responsibilities concerning children. It would be incorrect - and unfair - to say for example that "It's all the parents' fault! They just don't care about their children - look at the child welfare statistics!".

The daily papers were a different matter. Increasingly national and local papers printed our press releases and called the office for opinions. The number of clippings indicated both the contents of the press information and the general interest. The clippings we received would cover about 60% of the total number of items. The number of clippings was approx. 1.600 in 1982, most about the Office which was then "news" in itself. After that, the content changed to reports on statements, opinions, lectures, and public appearances. In 1984 the number of clippings was 1.050, in 1988 over 1.800.

3.2.6. RESEARCH INSTITUTIONS

When empirical evidence was needed, staff members would naturally turn to members of the Advisory Panel, to colleagues, universities or research institutions. When hearing statements were being prepared, our experience was that often the sources asked could not give us the information we needed quickly enough, in time to be useful before the deadline of the statement. The informal sources were more helpful in this respect, since colleagues working in the field would have relevant information at hand.

Concern for children was expressed through the establishment of a number of research institutes and research programs during the 1980s. The Norwegian Centre for Child Research (Trondheim) was established in 1983, partly to act as a coordinator for the research being done in many other institutes, universities, and research groups. The Ombudsman and the Centre established close connections informally, but also by having Advisory Panel meetings with the Advisory Board of the Centre. The Center for Child Welfare Research (Oslo) and programs for child related research within other research institutions were initiated by the Ministry of Health and Social Affairs and the Ministry of Consumer Affairs and Government Administration. The latter research program had the "Head of Division" from the Ombudsman Office in the chair of its steering committee. The Ombudsman Office had direct contact with the children's environment programmes at the Norwegian Institute for Urban and Regional Planning, the National Institute of Public Health, the State Pollution Control Authority and the Institute of Transport Economics.

The Ombudsman Office gradually gained insight into which areas needed further research, where research was missing. This was conveyed to ministries and research institutions, and sometimes the institutions would provide the necessary research, for example on how children are taken care of during summer vacations. On the whole, however, the issues were too complicated for short-term research, so what we could hope for was results in the longer run and a better coordination of research efforts. In Norway, policy decisions are to a large extent based on research results, and social planning is strongly influenced by information from social science investigations. As one example, the Center for Child Welfare Research was established to investigate how the child welfare system works with the purpose of proposing changes based on the research results of the Center. Research institutions can have a major impact on policies in a wider time perspective, so for the Ombudsman it was important to influence the choice of research areas.

3.3. Evaluations and appraisals

3.3.1. EVALUATIONS INITIATED BY THE MINISTRY

3.3.1.1. *The first outside appraisal: 1985*

The first kind of outside appraisal of the institution came when my first term was approaching an end. There was no longer any political support for abolishing the Ombudsman Office. Even members of the opposing parties had by that time publicly supported it. The advertisement of the post (in the spring of 1985) was formulated to indicate that the responsibilities of the Ombudsman would be reconsidered during the next four years. An attempt was made to replace me with a person considered politically neutral after I was publicly accused of giving opinions based on party views. This would have gone against my own non-party political definition of the Office. The cases used as examples were the Abortion Act (which had been adopted in 1978 and had not been under discussion since), the Alta Power-project Plan, the proposal for legislating Lutheran religious education in all pre-schools, and the Conservative coalition Council of State's report to Parliament on family policy. The Alta (a municipality in Finnmark) Power-project had been referred to the Office in 1982, asking what effects the building of a big dam with the power-plant attached would have on climate and other conditions for children. I had dismissed the case, finding no research basis for a considered opinion. Opposition to legislation of religious education in the preschools, while being in accordance with the Labor Party views, was based on professional reasons, (see page 208-209). Concerning the Parliament Report on Family Policy, my statement supported suggestions from seven political parties (see page 176).

The Council of State reappointed me, for a second (and final) term in June 1985.

The Ministry later that year asked me for a total evaluation of the Act, instructions and experiences, but did not follow up with the specifications I asked for. There seemed to be little reason to spend time answering questions the Ministry had not posed, perhaps at the same time neglecting to answer the questions which they felt were important, particularly since the annual reports, submitted to the Ministry, gave broad information about the case-load as well as the actions of the Ombudsman.

3.3.1.2. *My evaluation: 1988*

In late 1988, the change of ombudsman being imminent, I was asked for an evaluation of the Act and instructions. In my opinion, these documents functioned well as a basis for the work of the Ombudsman, giving both the necessary flexibility and the necessary restraints (See detailed discussion Chapter Seven). I suggested that it would be advantageous to have the term in office commence in January, not September. Since the term coincided with election periods, the appointment of a new ombudsman could become more of a political issue when it must occur in the midst of a general election campaign.

I also suggested that the ministry might consider empowering the Ombudsman to postpone decisions by municipal Councils for one month in cases concerning children, if the case had been brought to the Ombudsman too late to allow proper handling before the Council meeting. Very many of the municipal cases were brought to the Office just days before the final decision was to be made, leaving no time to get the documents and prepare a well-informed statement. For the municipalities, which have Council meetings monthly, it would, at most, mean postponing the decision until the next meeting. (With the amendment of the Building and Planning Act in August 1989, legislating municipal responsibility for considering the needs of children in all local planning, this idea lost some of its immediate importance).

My final suggestion concerned the Advisory Panel. The Panel was supposed to meet at least four times per year. Participation declined, however, an issue that was discussed with the Panel. The members had no real responsibility, and the need for practical advice on how to handle cases decreased as the Office gained experience. Panel meetings became in a sense "mini-seminars" on topics of interest, and always gave valuable support and ideas. But the work connected with meetings took so much time that the staff wondered if the rewards were worth the effort and time involved. I felt that it would have been more helpful with a Panel consisting of 25-30 members, a kind of "bank" or "experience-pool" from which a selection of members could be drawn to discuss, for example, professional problems for which the Office lacked competence.[10]

3.3.1.3. *Ministry evaluation and my responses: 1989*

When I had submitted my evaluation of the Act and Instructions, the Ministry of Consumer Affairs and Government Administration prepared its own evaluation. In general and on nearly all specific points, this evaluation was positive. It did have critical remarks: It was said that too much time had been spent on individual cases, leaving insufficient time for concentration on cases of general interest. (This situation is discussed in Chapter Five, page 151). Also, the Ministry felt that the Ombudsman had given too many hearing statements, at times straining the issue in order to show that the proposal indeed did have something to do with children. Looking at the list of statements (see Appendix Three), it obviously covers a great variety of issues. However, one of the objectives of the Office was to point out that children *are* involved and have to be considered even in areas where this is not common knowledge. Some of these statements are comprehensive and detailed, for example, the statement on the effects on conditions for children of block grants from the national to the local administrations. But a hearing statement might also consist of only a few lines, when the Ombudsman did not have additional or critical remarks, or referred the proposal to other, more competent bodies. In the records, this kind of "non"-statement was recorded as a statement.

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[10] The suggestion made by the Ministry in 1989 was to change the rule of chairmanship, so that in stead of having the Ombudsman serve as chairman, the Panel should elect its own chairman. The outcome of this proposal was not clear in Dec. 1989, and no new Panel had been appointed for my successor by January 1990, the previous Panel having completed its term in September 1989.

A different point made by the Ministry was whether some of the statements were too detailed, with the result that the general opinion of the Ombudsman was obscured. Aware of this possibility, all extensive statements were opened by a summary, presented as the first page. Many statements truly *were* detailed, a consequence of our policy to present the research data on which our views were based. The use of social science research focuses attention on *children*, on what is known about their needs and behaviour patterns. Statements would point out the consequences which this knowledge should have for policy. The necessity of such a strategy was sharply brought to mind in May, 1982. As a reaction to one of the very first statements (opposing Lutheran religious education in all preschools) the Ombudsman was criticized in the Storting for disagreeing with the Counsel of State views (K. Kristiansen, Christian People's Party, May 1982). The Minister replied that this was the right of the Ombudsman, but that she hoped that the Ombudsman in future would base her opinions on objective fact. (See page 209). A different point of criticism was the danger of raising issues already being considered by the ministries, and of "flogging dead horses", not giving in or up gracefully when a case was hopeless. The ministry particularly pointed to the issues of moving the newscast in TV to a later hour, of umbrella legislation for children and/or the establishment of a new Ministry of Children and Family Affairs. The choice of examples did not support their view. The Office had done nothing to get the newscast moved since 1986. (See page 282-283). Nor had "umbrella legislation" for conditions for children been re-proposed since 1986, except by being referred to when the *first* proposal for a Ministry was made in August 1988, a proposal only followed up once, two weeks before I left office.

3.4. Visible and less visible results

3.4.1. CHANGING EMPHASIS TO PREVENTION AND RIGHTS

Over the years there was a change of emphasis in my own approach. My previous professional thinking and experience had focussed on the *individual* needs, strengths, and vulnerabilities of children in order to help those children who in some way were not "normal", struggling with disabilities or developmental lags. Children's needs and vulnerabilities at different stages of development were still basic guidelines, now supplemented by the sociological and legal views of the other staff-members and information from other sources.

As we gained experience, the point of view of the Office increasingly emphasized preventative measures, possible within the societal system in which we worked. It also became increasingly clear to us how conditions for parents were changing without the complementary and supplementary support systems around the family we considered neccessary. Many of our statements would aim at showing how changes within a society or increase of knowledge may lead to conditions which could have negative consequences for healthy growth and development. Some changes threatened or were already weakening valuable aspects of the environment which are not recognized as true values until the loss was a fact. When the loss became evident,[11] such changes could necessitate changes in the balance between parental and public responsibility for children.

The other shift of emphasis concerned *rights* for children. With the needs of children as our starting point and seeing how often these needs were neglected, increasingly led to the question of legal as well as moral rights. As a group the staff shared a conviction that children and young people are equal to adults in value, need special consideration, but should have equal rights. Human rights in general were not enough, partly because general human rights did not take into consideration the special needs and vulnerabilities, the special needs for protection and care that children have. Even when human rights do not exclude children, some of them were still denied to children, for example, the right to free expression of opinions or the right to participation.[12]

It seemed increasingly clear that legislation for children's rights must be strengthened. The tradition in Norway of using legislation to improve conditions, particularly for weak groups, had a long history. Once the Storting has adopted a new law, one or another of the Ministries are responsible for implementation, and information and the development of whatever regulations and instructions that law might require. Legislation thus is more than words on paper.

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[11] The value of having siblings is a value not really appreciated until families not longer had more than two or at most three children.

[12] The drafting of the Convention on the Rights of the Child started in earnest during these years, but the Ombudsman Office had nothing to do with this. The Convention was an international matter and government responsibility, and the responsibilities of the Ombudsman were national. Monitoring conditions for children with reference to the Convention, once ratified by Norway, is a different matter, to be discussed in Chapter Eight.

As in many other countries, there are two main streams of opinion about the use of national legislation. One says that legislating a right is of no use as long as implementation is impossible. A right is of no use if claims based on the right cannot be met. If the right to preschool education were legislated, this would only be an illusory right as long as the municipalities (or the state) are unable or unwilling to put up necessary funds for the preschools.

The other school of thought says that a purpose or an ideal is publicly stated in a binding way through the laws. Legislation is a translation of attitudes and values and can be used to change attitudes, which was why the "corporal punishment" amendment was adopted (see page 266). Thus, by legislating the right to preschool, the nation would commit itself to providing preschools, would state publicly a view on the value of preschool education, and perhaps accelerate the process of establishing preschools. In this way legislation may have value - even though it might take years to fulfill the right or claim of each child.

The rights and needs of adults were well taken care of in laws concerning community planning, employment, and welfare benefits. Similar rights based on the needs of children hardly existed. A main concern eventually was that legislation concerning the rights of children, while improved over the years, was still weak as compared to legislation governing the rights of adults. The rights of children are often:
a) indirect - the right is given to an adult (often the parents) on behalf of the child, or to the child through the adults, which means that the child can exercise the right only to the extent that the adult is willing to cooperate or inform the child of the right;
b) conditional, often in the sense that the right is only valid under certain conditions, for example, that funds are available, when similar rights are not, at least in legislation, made conditional for adults;
c) non-existent, in connections where adults, under very similar, even identical conditions, have clearly stated rights, and where there

is really no reason why similar legislation should not apply to the younger generation.

Norwegian health legislation provides examples of the two first weaknesses: By law *parents* have the right to take their child to "Well-Baby"-clinics or health-centers. Ninty to ninty-five per cent of all parents exercise this right. But nothing happens if a child is not brought to the clinic after the public nurse has visited the family. The small group who does not come, may well be the children who actually need this service most (NOU 1982:26), babies with parents who neglect them or who are ashamed to have a child not developing according to expectations. The parents may be ignorant, ashamed, or frightened. But the child may be the one to suffer. As the issue involved is really the health of the child, it would seem reasonable that the right to health care was the right of the child. In practical terms, a law amendment, making the child the subject of the law, not the object, would make little difference in a country where a very high percentage of children are brought for check-ups. Few parents would feel that their own rights were threatened, even if the amendment would imply that the parents would lose a legal right, but retain the responsibility for obtaining the service for their child. The public health services would then be obliged to provide such care, even if the parents objected or when they neglected their duties.

School legislation provides an example of the third weakness, namely the lack of a legal right for children to have the same protection in their "job" as the adults have in theirs. Children are more vulnerable, less able to speak up for changes in their situation, and vastly outnumber the adults. (See Chapter Five, 2.3.3.7., page 236).

3.4.2. ACHIEVEMENTS

3.4.2.1. *A channel for children*

The most novel and one of the most important effects of the Ombudsman Office was giving children a possibility of expressing their own concerns, even reaching top-level decisionmakers. Some (for example, the Secretary General of "Mental Barnehjelp") expressed the opinion that such a possibility implies "fooling children" into believing that they can have an impact on their conditions. But: Where else can children go? They can - and very often do - go to parents, teachers, organization leaders or friends, who may or may not take the problem elsewhere. Some children can turn to local services, including churches or lower-level courts. What they do not have is a service to which they can turn if or when the instances they do try cannot or will not help. As noted above, children cannot use organizations, the media, or other means available to adults. Another question which may be asked is: Why should children have ambassadors - or adults to take over responsibility when children very well can handle the responsibility themselves, given an opportunity and the support they might ask for?

We did not feel we were fooling the children. In turning to the Ombudsman, they never got a promise of success, only an assurance that the Ombudsman would consider their complaint seriously, and do whatever could be done if the complaint seemed reasonable. Children are sensible and rational, often more so when they are not speaking to or arguing with their parents. They very often understood when the Ombudsman had arguments against their cause which they perhaps had not thought of. They also realized the difficulties of achieving results, when these were explained in a way the children could understand. And finally, but most important of all: Children *can* and *do* have an impact. Some of the major cases of the Ombudsman were brought up by children, some went all the way to the Storing, a few leading to legislative amendments, others to changes in the interpretation or implementation of rules.[13] Children certainly would not have had such an impact without having the Ombudsman to turn to.

3.4.2.2. *Networks*

Another important, although not very visible, effect was a "bridge-building", between organizations, between organizations and administration and between different branches of local and national administrations. Because the Office is unhampered by bureaucratic "rules of the game" and is independent, it was possible to establish contacts between sectors and individuals where this might be difficult for others. Since the Office is independent of political leadership and political changes, it also helped bridge the gap that might have occurred with changing Councils of State. Most important, however, was the bridge created between children and the top-level decision-makers, illustrated in the chart page 142.

3.4.2.3. *Changes in rules and legislation*

The ultimate - but unrealistic - goal of the Office was, of course, a change in attitudes all over the country in such a way that the Office was no longer necessary. It was equally obvious that steps towards this goal must be small and directed at more circumscribed problem areas. Some were obvious: In 1981 Norway had a number of statistical records of which there was no reason to be proud: the highest accident-rate for children, a higher neonatal mortality rate, the shortest school day for 7-10 year-olds in Scandinavia, the lowest percentage of preschool children in nursery schools and kindergartens in Europe. These more concrete problems and the work done with them were steps in changing attitudes and recognizing children's needs, but also problems in the face of which the Office obtained the most evident results.

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[13] Some examples are visitation rights (Chapter Five, page 187), changes of the use of Labor Protection law in relation to pupils (Chapter Five, page 241), and the principle of handling cases where children are parties according to the rules of public administration that apply to adults (Chapter Five, page 237). The complaints from children certainly provided examples and contributed to the changes of the Building and Planning Act (page 306) and the Parents and Children Act (page 268).

There was a clear public recognition, e.g. by the Minister of Consumer Affairs and Government Administration in August 1989 and confirmed by Melton's interviewees (1991), of the role of the Ombudsman in achieving the following measures:

1. Legislation prohibiting physical punishment and physical and psychological treatment threatening the physical or psychological development of children. Proposed by the "Child Abuse Report"-Committee in 1982 it would probably have been adopted at some point anyway. But the Ombudsman was responsible for taking this item out of a much larger context, and keeping it alive under three different ministers; so it is reasonable to believe that the Ombudsman 's efforts were important in bringing the proposal to the Storting. Our most important effort was, however, not so obvious: the work we did in the Storting and through the press, to lay the foundation for an interpretation of the law which was imperative if the law was to be an improvement. (See page 266-268).
2. Restrictions imposed on the distribution of videos. (See page 285-287).
3. New regulations concerning the rights of hospitalized children. (See page 268-270).
4. Raising the age at which young people can be tried and sentenced by adult courts and imprisoned in adult prisons. (See page 259-261).
5. Building regulations for safe housing and accident prevention in the homes. (See page 291).
6. Regulations for child safety in automobiles. (See page 309-310).
7. National, governmental guidelines for taking the needs of children into consideration in all urban and rural planning. (See page 312).
8. Recognition - in legislation - of children's right to know both

their parents, regardless of marital status or whether the parents actually lived together at all after the child was born. (See page 184-187).

There are other results in addition, some of which have been reported since I left the Office. The Ministry for Consumer Affairs and Government Administration was re-named, first into "The Ministry of Family and Consumers", then going into effect January 1, 1991 "The Ministry of Children and Family Affairs". (I do not know if this would have happened regardless of our suggestions). The work for asylumseeking children (see page 270-272) had not brought results that I knew of, but "Along with Redd Barna, the Barneombudet receives credit from all concerned for the fact that the issue is on the national agenda at all" (Melton 1991). Melton also summarizes, on the basis of his survey, the impact of the Ombudsman on the municipal level: "In fact, although it is difficult to document, the greatest impact of the Barneombudet may have been on the local and county level. The Barneombudet has had substantial impact in the development of structures for implementation of child-sensitive policies. Even though the personnel has not been available to do follow-up in the local communities, the habit of sending copies to local officials and media probably has had some effect in the process of deciding such questions - and, with personnel to do follow-up with local and county officials, could have more effect. As Marianne Borgen, the current deputy barneombud summarized, "The local discussions are different after we come into the case... We make children visible" (Melton, 1991).

This confirms my own impression. In dealing with local administrators, it was increasingly clear that very many of them (and their counterparts amongst politicians) have inadequate knowledge about the needs of children, their behaviour patterns and the impact of trends in society on conditions for children and their families. The Ombudsman may be alone in analyzing the effect of a proposed measure in view of the consequences for the younger generation. (This was very much true on the national level as well, particularly in relation to the "non-child-related" ministries). Many institutions were simply not aware that matters they dealt with had any influence on children at all. And the responses to opinions and statements were positive, even if a statement did not change the outcome of the issue in question. The information it contained would be received with gratitude, and might have an effect the next time a similar issue came up.

4. Summary, part I

Could, then, the Ombudsman as one player on a larger team, have been removed? Would the goal score have been the same without the Office? Even that question is difficult to answer. My own belief is that many of the goals, particularly the legislative amendments, might have been scored, but perhaps not yet. In some cases it would clearly have taken more time, because the Ombudsman could keep issues alive, keep the ball in motion, in periods when this was difficult for others to do. In other cases the Ombudsman could raise issues difficult for others to raise, setting a ball in motion earlier than would otherwise been possible. That, in itself, could be justification for an Ombudsman for Children.

Apart from the specific issues mentioned it is not possible to determine whether the Ombudsman for Children has had an overall effect on conditions for children. But the changes that were effected are, as parts of a larger picture, indicative of a process in which children are more visible, the concerns of children voiced more clearly. Acceptance of new hospital regulations and of child representation on the local building boards demonstrate a will to create structures which may have very important consequences in the long run, if implemented seriously. There is no clear evidence that consideration of children in terms of taking the necessary policy-decision consequences has improved *substantially*. Nor do I know how this could be measured. But progress has been made. Most important, perhaps: consideration for the needs of children has not declined, during a period when there are other strong forces counteracting the interests of children. Two of these forces should serve to illustrate how difficult a total evaluation must be: the continuous and increasing financial problems within the country and the municipalities, and the increasing proportion of elderly in the population.

4.1. The experience of the Office indicates that it will be needed in the years ahead

In Norway children now constitute 25% of the population. Given a stable birthrate (or even with the slight increase some demographers predict) children in year 2020 will constitute 15% of the total population.

Actually, representation by parents with children under 16-18 years of age is probably low in the decision-making bodies, particularly with regards to the mothers. Even if women constitute over 30% of the elected politicians in Norway, it made headlines when female members of the Storting demanded that the Storting establish a staff nursery school for their children. (Why male representatives, many of whom had small children over the years, had not done so long ago is a provocative question). Caring for children in addition to a full-time job takes so much time and energy that little is left for participating in political activities, even on a part-time basis. Research (Skard 1972) has shown that particularly women, to be active, must have an available telephone (at home or at work), possibilities to read documents etc. during the day, and someone to take over the children during evenings. Even so, female politicians have higher absentee rates and a much higher turn-over than male politicians. The elderly are able to vote for the candidates and the political parties that will defend their interests, and they themselves have the time and can be elected as municipal councillor or member of the Storting, particularly since they go on a pension at age 65 to 67, and then have time as well as energy for political office. Even those who are *not* elected by the elderly are often beyond the stage of daily worries about day-care, hours alone after school, or concerns about the drug-use, irresponsible sexual activities, or unemployment of teen-agers. Looking ahead, the increase in the relative numbers of elderly may well lead to an increase in the mean age of politicians. Politicians at least 45 years old with parents 75 to 90 years old are and will understandably be very concerned with the situation of their old parents and their own old age. Regardless of political party membership, the choices may well swing in favor of the problems of the older generations, away from the issues concerning children. With the trend towards one child families, and hypothesizing that *all* couples would have but one child, the maximum proportion of the population consisting of parents would then be 30%, or 36% of the *voting* population. There can be no doubt that parents and children need strong voices on their behalf.

5. Summarizing some facilitating factors and constraints

5.1. A wider mandate than the other Ombudsman Offices

The Ombudsman for Children was established because there was national concern about children. Those who disagreed about the *Ombudsman* at least felt that *something* must be done. The pattern had been set by the other Ombudsman Offices, with the difference that no specific law(s) were the basis for its mandate. There *were* no specific laws suited for the purpose. Similar to the other Ombudsmen and distinct from other services and institutions, the Ombudsman for Children was by law:

- autonomous, with its own secure budget, independence in relation to the rules of the bureaucracy, in relation to political parties and leadership;
- only concerned with the interests of one group of the population, in the case of the Ombudsman for Children: children;
- accessible to any individual, organization, institution. The emphasis on availability to children was established by the first ombudsman and staff and was naturally a special feature of *this* Ombudsman Office, although children could also turn to the

other Ombudsmen Offices.

As a consequence of having *children* as the area of concern, the Ombudsman for Children had wider powers of discretion and specific powers of investigation than the other Ombudsman. Also the rule against handling cases of family conflict was not neccessary for the other Offices.

The annual reports of all the Ombudsmen are available, but as far as I have been able to ascertain, there have been no opinion surveys or evaluations of the other Ombudsmen Offices, except the Ombudsman for Public Administration. (Os, 1988?). If this is in fact true, it may be a reflection of the ambivalence in establishing the Ombudsman for Children, which was by far stronger than for the Consumer Ombudsman and the Ombudsperson for Equal Status for Women.

The unique element of the Ombudsman for Children was the wide scope of the mandate. This obviously gave the Office flexibility, but there is also a danger, as pointed out by Melton (1991):

> "An advocate without a portfolio (e.g., one who does not have explicit statutory authority or has statutory authority that is so broad that it is essentially vacuous - who is, in other words, watching almost anything relating to children - has an inherently suspect legitimacy. More particularly in the early years, and no matter what the specific structure, if it has no specific jurisdiction, it will be forever politically 'under gun' for questions of overstepping boundaries. Where the jurisdiction is ambiguous, advocates have to take on a 'missionary character' and be willing to take chances in terms of the range of issues they examine".

Having no specific law or sets of laws to defend there was no clear framework for what the Office was *supposed* to do. Almost any problem touched upon might raise the question of the legitimacy of action of the Office, as the Ministry did (see above, page 346-347). The targets could be unclear, except the general target of improving conditions for children. Also defining priorities was a constant dilemma. Goals clearly defined in the Act or elsewhere would have helped in the constant choices between individual and more general cases, between different areas of concern, between pressing short-term issues and the need for long-term planning and sustained effort. In addition more measurable results would have been easier to obtain against the yardstick of precise responsibilities.

5.2. The good-will of establishment

The very fact that the Office had been established worked in its favor. This was one expression of politicians where these politicians had confirmed their alleged concern for children with positive action. Later, one of the main objectives of the Ombudsman was to point out when politicians were *saying* they were concerned for children, but *doing* little or nothing about it.

Being new and novel worked both ways: it was positive because the lack of public image allowed the creation of the profile we wanted and because of the general interest created; it was negative because there was no established platform from which we could proceed.

5.3. Limitations of staff and budget

Having a multiprofessional staff was a definite strength. But the small size of the staff was an obvious limitation, particularly in view of the wide mandate the Office had been given. (Sometimes I also felt that the level of commitment might be working against us, because the workload which each staffmember was willing to take on concealed the very real need for more help). There was little funding for publicity, publications or travelling, no funding for research on commission of the Ombudsman. In discussing how an office of this type could be strengthened, it is obvious that a stronger budget and a larger staff would be important. In addition, a research institution obliged to generate the kinds of data needed, e.g. practical indicators for conditions for children, would be exceedingly useful.
But we did learn from the first years that even on a small budget a dedicated staff could have results.

5.4. The "Trial-and-error" method

With no pool of experience, no task descriptions on which to proceed, the work of the staff was a "trial-and-error" effort while experience was gained. Our backgrounds from municipal politics and working in ministries, and the very tight teamwork established, were probably the reasons why we did not have more abortive attempts in handling cases than we did. Lack of experience need not be a neccessary weakness, but lead to innovative approaches, unhampered by preconceived ideas based on experience. This might indeed be one good reason for having an ombudsman with a limited term in office.

5.5. Public attitudes and practical consequences

During the years and gaining experience, impressions of attitudes to children changed. The notion of the child as the property of the parents came up in different contexts, even if the right to possess a child is no longer tenable in principle. Some children adopted from other countries turned out to have been kidnapped or sold for the purpose of adoption. Even for children who had been living with adoptive parents for many years, the question of "to whom does this child belong?" and the statement "Blood is thicker than water" indicated that ownership was still an issue, even in a culture where there is a general acceptance that children are "on loan" and not owned. Even in less dramatic, but far more common cases, e.g. in divorce, the children can become part of the bargaining battle between the parents. Fighting about where and with whom the children shall live can be very similar to a battle about which parent shall "own" the child, and how much - or how little - the other parent shall have access to the child. Such parental conflicts will very often disregard the child's own rights, e.g. the child's right to give an opinion, to make the decision if he is over a certain age (e.g. 16 years old) or the right to have access to and know both his parents.

In similar fashion conflicts based on the idea that parents "own" their child might occur when public authorities take over responsibility for a child, disregarding "the best interests of the child" in their concern for the parents. Child welfare then turns into "parental welfare". Also, the adults' right to a "fair trial", with all the possibilities for appeal, may lead to serious neglect of the child's needs, e.g. for a stable home environment. The child's right to a fair trial is rarely an issue. All parties argue "in the best interest of the child". What is really in the child's best interest may be difficult to determine, but the views of two opposing parties cannot logically both be right. And even when an ideal solution is found, the child's right may still be infringed upon if implementation proves impossible.

Taking the consequences of public responsibility can be avoided if politicians agree that "Children are naturally the responsibility of the parents" or - put in another way, "We do not want our children to be State property". The implication is that the child is the property of the parents. Leaving all - or too much - responsibility to the parents can be an excuse for not providing public services to meet children's needs that even the best parents are unable to satisfy. In Norway this attitude became more dominant and outspoken when financial resources and the problems of financial distribution between groups became more difficult. It is, for instance, hard to neglect the obvious needs of the elderly, who are vocal, vote, and are elected to decision-making bodies. It is much easier to disregard the needs of children by placing the responsibility squarely on the shoulders of the parents. This is all the more unfair when many of these parents have a greater number of old people than children to care for and lack public services as well as private facilities for the elderly.

There seemed at times to be a more general discrepancy between professed attitudes and action, the attitudes expressed in principle being that children are important, the actions showing them that this is not true. If we e.g. maintain that schools are important, but let the children get their education in run-down buildings, with tattered books and out-dated information, how can we expect children in countries that could obviously afford better, to respect school property and feel that they - as pupils - are important? When youth clubs and leisure time facilities, school transportation and health services are the first projects to be obliterated when local economy is tight, how can children believe that their lives and activities are important? Slogans such as "Children are our most valuable asset" are not worth much when society does not seriously realize its responsibility for children.[14]

For parents the child as an individual, as a member of the family, as emotionally important carry most weight. For society the importance of children as future adults perhaps carries more weight. Children and youth as active, participating members of groups, with opinions worth listening to, is not considered important enough, at least not yet.

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[14] A less obvious effect of adults' views and attitudes towards children - as individuals and as a group - is that the attitudes will influence the children and their development. In any interaction between children and adults there is a continuous interpretation of behavior, with the child adjusting behavior according to what the child perceives as important to the adult. Do adults communicate that children are valuable in their own right - or do the signals indicate that the adults are only waiting for the child to grow up? Do adults agree, so that the child gets the same message from many adults or are the messages conflicting and confusing? The signals come from many sources, teachers and organization leaders gain importance in addition to parents and other children and the mass media, particularly television, including advertising. The communications about values found in mass media are often contradictory to the values of parents and teachers. But authorities responsible for what the children are exposed to are not willing to introduce measures to protect the children.

6. Summary, part II

The main arguments against the Office in 1981 could be summarized as follows:

- The Ombudsman would threaten parental authority.
- The Ombudsman might become an excuse for other groups and bodies responsible for children to diminish or relinquish their responsibilities.
- The funds allocated should rather be used to strengthen other existing efforts or services for children.

Exisiting evaluations indicate that the Ombudsman for Children established a firm position during the first eight years. One reason was that the fears were known before the Ombudsman Act and Instructions were adopted and could therefore be counteracted through the instruments governing the Office. It seems that the Ombudsman is well known to children and that parents as well as other adults see the Ombudsman as a support. Politicians and administrations on the local as well as on the national levels might perceive the Ombudsman as "nagging" at times, but a positive "pusher" (O. Pettersen, 1990) and "Middle-level officials have perceived the Barneombudet as an avenue for presenting ideas that may be important in protection or promotion of children's interests but that lack support of the officials with ultimate authority" (Melton 1991). The Storting strenghtened the budget twice. Now comments are positive, ranging from "useful" to "very, very important" (Melton, 1991). The conclusion must be that in spite of initial ambivalence, the Office has been established in such a way that it will be difficult abolish it. It is generally accepted and has achieved worthwhile results.

Chapter Seven

General Principles and International Interest

Introduction

Based upon the experiences described in Chapter Six, an attempt is made in this chapter to establish the principle factors which were important to the work and achievements of the Office. Tentative conclusions are drawn on the relative importance of these, which are then applied to alternative models existing in other countries. Certain principles emerge which are common to the majority of models and therefore may be useful guides in other attempts to establish mechanisms for monitoring conditions for children.

Other questions of general interest are also raised: Was the Ombudsman Office really working for children? Do children really *need* some person, group or institution to work for them, in addition to or instead of their parents? or beyond the existing public and private agencies providing services for children? If the answers to one or both of these questions are "no", the question of child advocacy[1] in general and of an Ombudsman in particular would not arise.

On this basis answers may be found to the questions asked in view of the international interest in the Ombudsman for Children Office: Which experiences of the Norwegian Office can be useful in other countries trying to strengthen or establish their means for improving conditions for children and working for the rights of children? Are some elements and experiences more important or relevant in some countries, others in other countries?

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[1] Verhellen (1991) describes child advocacy as a strategy "within the context of the children's rights movement,... aimed at changing social systems, institutions and structures in order to maximize the children's possibilities of self-determination. This particular kind of advocacy understandably bears upon those living conditions in society that are an impediment to the optimal functioning of children. The basic idea of this strategy is that no effort whatsoever can produce a lasting result when it is made to benefit an individual child. Structural changes are considered imperative, and this is exactly what child-advocacy is all about".

1. Factors facilitating outcome

1.1. The Ombudsman Act and Instructions

The Ombudsman Act and the Instructions turned out to be useful tools, giving both flexibility and restraints. Experience showed that there are elements in the total pattern which proved to be more important than others:

1.1.1. THE AUTONOMY OF THE OFFICE

Autonomy secured through legislation may not be as important as the autonomy itself. But there are definite advantages connected with the combination of autonomy as expressed in the Act and instructions and the responsibility given to the institution:
a) Established by the Storting, the superior decision-making body gave public and official recognition to the need for child advocacy, inviting criticism, advice, information, and support. By having the responsibilities of the Office based in its own Act, the Ombudsman Office has official status and is permanent until the Storting revokes the Act, regardless of shifting political majorities. It can, therefore, represent and create a certain continuity in policies for children, and bridge gaps between changing political majorities. Even a less child-minded government will always be reminded of children and the importance of considering their needs.
b) In spite of the fact that the Storting established the Office and provides its annual budget, the Storting cannot instruct the Ombudsman, except through the restrictions in the Act and in the Instructions. Both can be changed, by the Storting and the Council of State respectively. (As mentioned above (page 332) the question has been asked if the Storting, by providing such a small staff has restricted the possible impact of a *strong* Ombudsman, giving "lip-service", but little actual support to the Office).

No other body, administrative, organizational or individual can decide *what* the Ombudsman can do, or *how* the Ombudsman shall carry out the responsibilities outlined in the Act. The Ombudsman has, by legislative consent, an obligation to criticize any administrative level, any group, organization or person (except parents in their role as parents) disregarding or minimizing the interests of children, regardless of any other considerations. This means that the Ombudsman can raise issues difficult to raise for others bound by loyalty to political leadership, or in the face of political opposition. A political majority can stall an issue, but the Ombudsman can set in motion a process, so that the issue may be resolved at an earlier date than otherwise possible.

Being free to handle any case or problem in any way considered most effective, the Ombudsman can alert a Council of State member, the Storting members or the highest level civil servants, letting an issue reach the uppermost possible level of consideration. Opinions and statements may also be distributed widely to the mass media, irrespective of political consent, informing the public and creating difficulties for politicians and decisionmakers wishing to disregard or being in danger of disregarding, the interests of children. In a few cases confidential proposals from a ministry, circulated to a limited number of "hearing instances" to sound out opinions, were reformulated and presented from the Office to the press, in an effort to get a wider impression of public opinion and to project an alternative point of view.

The other side of the "autonomy and freedom" coin could be isolation. Good contacts and connections with others (ministries, research institutions, professional organizations and non-governmental organizations) were vital, and particularly necessary with a small staff. If the Ombudsman Office had its own research "arm", connections with other research institutions might have been somewhat less important. If the staff had included people who could do literature surveys, compile existing information, or do more of the public information work wanted, the Office would have to rely less on others for help. Its own research branch, perhaps an obligation for specific reseach institutions to respond to requests from the Ombudsman would, therefore, have been one way to strengthen the Office. However, collaboration with others, in order to maximize the collective efforts, would have been important in any case. The freedom from bureaucratic rules in particular opened possibilities for untraditional contacts, non-bureaucratic methods and novel constellations of cooperation. These possibilities were used, also to open up channels of mutual information and communication. In the field of working for children we felt that there should be no reason for self-protective competition, e.g. between non-governmental organizations or between ministries. Productive competition may, on the other hand, be a good thing.

1.1.2. CHILDREN AS THE SINGLE PURPOSE

The Ombudsman for Children had one single purpose: Protecting and improving the interests of children.

The Office had the interests of the child, and no other interest, as the starting point, the focus and goal of its work. The interests of children and their parents are in many cases impossible to separate. But even when the Office suggested or supported measures for parents, this was done with the needs of children as the basis, the proposal made in order to benefit the children, by enabling parents to function better as parents. Working for parents or for families was therefore highly possible, not only necessary. With the interests and needs of children as the basic consideration, we found it is easier to avoid:

- supporting causes which many adults would support regardless of the importance to children, perhaps using children as an excuse or:
- conflicts that easily arise when the issue touches on conflicting interests amongst adults.[2]

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[2] The child's right to access regardless of whether its parents had lived together or not after the child was born was first raised in 1981. It then led to a battle between the interests of fathers and of mothers, men and women. The child was in a sense lost in the scuffle. The Ministry of Justice at that time shelved the issue. When

In my opinion an Ombudsman must not be suspected of having a hidden agenda; nor must there be grounds for suspicion of a conflict of interests. Particularly since the Norwegian Office is legislatively and financially independent, there was no reason why the Office *should* serve any other cause. The Ombudsman for Children had no obligation to balance the interests of children against other interests, e.g. of the elderly or to balance budgets on any level.

1.1.2.1. *Did the Office really work for the interests of Children?*

The question of whether or not the Ombudsman actually served the interests of children is, none the less, more complicated than it might seem. As has been pointed out elsewhere (Melton 1987): "Child advocates act on behalf of children, but they do not always represent children" and "the values underlying child advocacy are, I suspect, highly related to individual child advocates' general political, social, and religious views. Thus there is considerable risk of confusing whose interests are being advocated. Advocates may delude themselves into believing that they are advocating for children when in fact they are representing the interests of only a particular class of children or, like the welfare reformers, other interests altogether".

This is an important consideration. Whether or not the Ombudsman for Children was actually working for children hinges on the reply. It is impossible to be completely certain that the Ombudsman for Children never fell into this trap. But I do believe that certain elements counteracted gross misconceptions of this kind:

- the independence of the Office itself shielded it from temptations and attempts at having the Office serve other

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the ombudsman raised the issue, it was as a child issue, based on the child's needs. This was the reason for the Ministry of Justice's change of attitude, leading to the proposal to the Storting.

purposes;

- basing our work on empirical data was another way of avoiding private opinions and personal feelings. When empirical data was missing, at least the professional thinking on which an opinion was based was clearly stated;
- we were acutely aware of the possibility, thus more able to avoid it to some degree;
- the Advisory Panel, representing different social, religious, and political views, could and would act as a corrective.

The fact that children did not always agree with the proposals of the Ombudsman may be an indication that they themselves did not always feel that the Office was representing them. Acting in "the best interests of the child" did not mean that the Ombudsman automatically agreed with all children. Children have different opinions and different interests. The minority that turned to the Office might represent a minority view amongst peers. So the Ombudsman must take a stand on the issue, but also conveyed respect for a serious point of view and the child's right to disagree. When convinced, the Ombudsman would help fight for their cause, but would not do so until then.

1.1.2.2. *Personal responsibility*

The ombudsman was personally responsible for all opinions and statements, even most of the correspondance which came out of the Office. The elements mentioned above also indicate that the person in office had a great deal of responsibility for how the office functionned as well as for approach chosen during the period in office. The person in office must have some particular traits if the Office is to have an impact. Melton (1991) says that an ombudsman "chosen for his or her ability to provide objective leadership on children's issues" is one of the critical elements of the institution. The ombudsman must be a strong person, but the powerbase can be very different from one person to the next. Also, the person must be trustworthy, so that authorities are willing to listen and the public willing to turn to the Office. Elsewhere Melton (in Flekkøy 1991) elaborates: "The source of authority can be derived from ... 2) the power of personality. One of the features of the Ombudsman model, in particular, is that it is a strong-person model directed by charismatic individuals who are listened to because of who they are...". Whether or not I fit this discription is difficult for me to judge. But regardless of the degree to which the discription fits, it is clear that even with a larger staff, the effectiveness of the Office would depend on the person responsible. Some might see a danger in personalizing the Office in this way, but this is - at least to some extent - counteracted by the fact that no other authority, organization or group had any kind of obligation to listen to the Ombudsman or follow the advice which the Office might give. Thus, if the statements were not well founded, any statement or opinion could be simply disregarded. Also, the Norwegian term of office is four years, with the possibility - but no obligation - to reappoint once.

1.1.3. AVAILABILITY/ACCESSIBILITY

Being easily accessible entails not only a general public knowledge about the Office, but also that the Office was willing to help, to answer questions etc. The gains were clear to the Office as well, because this was a very important source of information, especially from the children. If the Office had prohibited persons under a certain age (e.g. 16 years) to use it, the Office would have been weakened, for two reasons:

- If the Office had not been available to children, it could easily be suspected of serving other interests, e.g. actually be an ombudsman for teachers (in case of school complaints) or parents.
- The Office would then have been obliged to operate only on secondhand information about conditions for children.

Accessibility went both ways: information from the Office was available to others, e.g. ministries and political leadership and the

Ombudsman could reach the decisionmaking levels, nationally and locally. Combining these various aspects of availability, being accessible to children had the effect that the Office also served as an avenue or "open line" between children themselves and the highest levels of bureaucracy and decision-making. This was a difference between the Ombudsman and, for example, the local "Children's Contact-telephones". The importance of this connection was obvious when seen in relation to the official status of the Office and its legal obligation to submit opinions to exactly these decisionmaking bodies.

The question of degree of accessibility may, however, be raised. A "Contact telephone" or "local advice shop" obviously *must* be open to fulfill its duties, but a small office with a wider mandate can be swamped. With the good postal and telephone services in Norway, I felt that we were available enough, in the sense that children could get in touch whenever they wanted to, during daytime. (In need, they would even call me at home in the middle of the night). This position was supported by the population's general knowledge of the Office and the children's faith in the Ombudsman's ability to help. The decline in numbers of requests from children might, on the other hand, indicate that we should have been more available, which perhaps we could have been if we had been more well-known earlier, if we had succeeded in getting more information about the Office to the population through television and radio. On the other hand, we did not want to be the recipients of any everyday question children might want to ask. It was not our job to help with homework, be babysitters or answer all children's question e.g. about sex, even though questions like these might uncover a more serious problem, e.g. that children spent too much time alone at home. If the Office somehow had been even more open to any kind of request, it might have been difficult to sort out the really important issues, particularly with a very small staff (one for every 250.000 minor) and with the obligation to at least answer all telephone and postal contacts. There was a balance involved, between being accessible *enough* to get the important complaints and being so accessible that the office was unable to *handle* the important questions properly.

1.1.4. THE IMPORTANCE OF DISCRETION AND INVESTIGATIVE POWER

To the Norwegian Office the right to relieve others of their oath of confidentiality combined with the Ombudsman's right to protect sources of information were of great importance, increasing the availability of information to the Office. Possibilities for getting information which might be sensitive or difficult to convey without such rights were enormously strengthened by having them. The free access to all documents and institutions for children was important in the same way, even if resources (time, staff and funds) prevented actual investigation, except in very few cases (see e.g. page 213). In many cases, other authorities, when notified, would have more first-hand knowledge and be able to report back on conditions that a visit would not disclose, e.g. when the complaint concerned "mental cruelty" to children in an orphanage. Even if these rights had to be used with discretion and were not, in fact, used very often, the knowledge that we *could* do so was important to the plaintiffs as well as to the Office itself. And there was no rule against informing a plaintiff of these facts, particularly of our right to protect sources, if the impression were given that information otherwise would be withheld.

Discretion also meant that letters and calls from children were confidential. Even the fact that a child had turned to the Office was not told to anyone without the consent of the child. This was particularly important in relation to the press, which could get information about the problems raised, but not the identity of the individual plaintiff.

1.1.5. THE ABSOLUTE RULE AGAINST GETTING INVOLVED IN INDIVIDUAL CASES OF FAMILY CONFLICT

On principle and in practice the absolute rule against handling individual cases of family conflict was imperative to the functionning of the Office. This rule was a relief to many parents (particularly when their children threatened to complain about parental behavior). As has been described, having this rule did not mean that the Office did not get information of family conflicts. It was also a great relief to the Office that the Ombudsman could not serve as a court of appeal for any other institution dealing with family conflict, e.g. the child welfare system, divorce courts, family counseling offices, school psychology service etc. The information which the Office received, however, through complaints that had to be dismissed, made it possible to deal with the principle issues involved, such as procedures in divorce, the child's right to have his or her own spokesman in court, the need for pre-divorce counseling and the child's right to access to two parents.

1.2. Informal guidelines

Some personal guidelines were developed or strengthened during the first few years, apart from the basic rule of *always* asking, "How is this going to affect children? (and nobody else!)".

1.2.1. REALISM

It was obvious to us that we must be realistic. Ideal solutions are unobtainable, unconvincing and will not sway public opinion. One of the basic characteristics of the Office was, on the other hand, the fact that even when we did see improvements, we asked ourselves: "Now what? Can anything more be done?". Sometimes this led to taking a case one step further, e.g. a child's right - equal to that of adults - of having his/her case handled according to accepted procedures (see page 239-240) which finally went to the Ministry of Education, with a proposal that the result of the Ombudsman for Public Administration's ruling be made known to all schools and parents. Or it might lead to suggestions for implementation, e.g. the follow-up on regulations for children in hospital (page 268). In my view the Ombudsman must look at the present situation, whatever it might be, and suggest improvements, although it was often wise to wait and see, after a change, how the matter turned out and what others were doing, before suggesting further steps.

1.2.2. PROFESSIONAL KNOWLEDGE AND REASONING

To gain credibility the statements of the Office were, as far as possible, based on factual knowledge, not hearsay, feelings or private opinions. In this way it was also to some extent possible to avoid the dangers of serving other (perhaps unconscious) motives or purposes. (See above page 371).

Developmental psychology (clinical as well as "normal"), sociology and law were the three professional areas represented in the staff. Developmental psychology describes the growth of children, but also trains the professional to see objects, events and relationships from the viewpoint of the child. Particularly with clincical training, the focus is on "How does this look from the child's point of view?" or "How does this feel to the child?" at the age and in the situation of that particular child. Psychologists are more apt to be concerned with the "inner world" of the child and the child's opinions and reactions than e.g. sociologists are. The sociologist is trained to see the child as one of the actors (sometimes a not very visible one) in a social arena, the arena being physical (for example, how do children use the equipment of playgrounds?) or person-related (for example, how is leadership demonstrated in the group of children on the playground?). The combination was useful, integrating the outside/arena view with the "inner world" experiential view. The legal point of view was focused on the control or protection of the child provided by law, and very often on the *lack* of protection or the lack of rights for the *child*.

Particularly in cases where there was no clear empirical evidence for what is *really* in the best interest of the children, the ombudsman had to be careful to base opinions on professionally sound reasoning. The Office could not be expected to have all available knowledge, so a statement concluding that we lacked sufficient evidence was simply a statement of fact. Pretending to know or presenting positive opinions not based on professional knowledge would rapidly weaken the credibility and influence of the Office.

If professional knowledge was to be useful, statements must be written in a language readily understandable to non-professionals. Trying to avoid a bureaucratic style, we also strove to write opinions and statements "for the man on the street". Academic style and professional jargon might have impressed some of the readers we actually wanted to impress, for instance, civil servants in the ministeries. But our statements were often distributed widely and read by many without a professional child-related background, for example, the technical staff, engineers, architects, a.o. in the municipalities.

1.2.3. THE AVOIDANCE OF PARTY-POLITICAL OPINIONS

Basing statements on empirical evidence as well as possible left the Office less vulnerable to criticism for taking party-political points of view. All opinions are political in the sense that they concern child-policy. Opinions were given on issues that turned out to be politically sensitive, e.g. the question of anonymous donors in artificial insemination (see page 191) or the question of legislating Lutheran Protestant religious education in all nursery schools and kindergartens (page 208), but pointing out what needs to be done for children does not necessarily involve political choice. "All children need peer-group experience before the age of seven" was one such statement, based on reasons for the increasing need for organizing this kind of learning outside the family. But while the availability and content of preschool education or other forms of good quality opportunities for social learning are important, the Office refrained from stating an opinion on whether or not nursery schools and kindergartens should be private or public, a subject of heated political debate in Norway.

We pointed to the need to know more exactly the expenses involved in bringing up children, and the effects of various possible ways of helping families. To be able to evaluate the effects of child allowances, child maintenance etc, it was necessary to know what raising children actually costs. But we did *not* suggest which of the possible measures (increasing allowances or child support, raising subsidies on e.g. milk and vegetables, decreasing fees in preschools, reducing taxes for families with children a.o.) should be used, since we did not have research to indicate which measure or combination of measures would be most helpful. The politicians might be able to get information from other sources to help them weigh the likely benefits and costs of policy options. But the debate indicated that political convictions were at least as important as financial consequences, so the choices had to be up to the politicians. Lacking the professional capacity to undertake this task, we did, however, try to get research institutions interested in finding the facts needed for a wise decision.

1.2.4. WHAT ABOUT POWER?

The Ombudsman for Children does have the power of being recognized as an authority on children, often synthesizing information or pointing out effects on children unrealized by others. Discussing authority apart from the authority which can be established by law, Melton (in Flekkøy 1991) says "The source of authority can be derived from 1) the power of ideas, the information flow which assumes the facts gathered will result in policies consistent with the way we would like children to be treated, and they would like themselves to be treated; 2) the power of personality. One of the features of the Ombudsman model, in particular, is that it is a strong-person model directed by charismatic individuals who are listened to because of who they are; 3) "loot and clout", i.e., "it is not so much who I am, or what I am saying, but who or what it is that I represent. I have authority by virtue of pure raw power". To me the "power of ideas" was far more important than the "power of personality", since my person was a temporary part of the Ombudsman Office. I also believe that effects of the Office were due to the ideas and "information flow" far more than to the "personality" effect. In discussing the different styles of my succesor and myself, Melton (1991) points out that my style depended upon a belief in the "power of ideas", while the style of my succesor depends on "the power of personality", which is not surprising. My succesor (Trond Viggo Torgersen) was selected for the post largely because he was a very well-known television personality.

The "loot and clout" type of power is unthinkable in any ombudsman office. As stated in the Act, the Ombudsman for Children does not have the legal authority to seek enforcement of particular statutes or to reverse administrative action. In a comment to the Norwegian Ombudsman, Bob Franklin (1989) brings up this issue: "The post moreover lacks political power since the Ombudsperson can make recommendations but is powerless to enforce them". It is true that the Office does not have enforement power, but as evidenced, for example, by the power of the mass media, enforcement power is not necessary for political power. If the argumentation for a cause is good enough, information, persuasion, and cooperation *can* be sufficient. The next question is, of course, could the effect have been even greater if the Office had had more power?

Particularly with a small office, I personally would have been reluctant to say that *my* opinion was the only right one, my proposals the very best solutions. Particularly in cases involving local government, we were aware that local people had an in-depth knowledge of the situation which the Office did not have. One purpose of proposals or suggestions was to create discussion. We believed that even if our alternative solutions were not adopted, any discussion weighing two alternatives against each other would bring a better result than a discussion for and against only one alternative. Also, discussion would increase awareness of information, which could then have an effect on later issues of a similar kind, even when the issue in question was resolved in a less "child- centered" way.

When asked to review the Act and instructions I did not suggest more power, except possibly the authority to postpone briefly a local decision in cases which were brought to the Office too late for appropriate handling. With "children's interests"-responsibility legislated for each municipal planning and building board, I should, had I still been in office, at least have waited to see how the new system worked, before making the proposal again.

2. Relative importance of legal and informal guidelines

Basing all efforts on the needs of children was the overriding principle for the work of the office and the foundation for credibility, connected as it was with professional knowledge about children.

Confidentiality in personal matters is accepted as a principle in many countries. In connection with Ombudsman work the degree to which the extended rights of the Norwegian Office was important depended on the mandate of the office. The child's right to confidentiality was only necessary because the service was available to children. In addition to protecting privacy in dealing with personal problems, discretion on the source of information from children protected the child. The right to protect sources would have had to be weighed against trustworthiness if information from the Office would have been unacceptable unless the sources were revealed. This was, for example, a problem in relation to the press, when reporters would not respect the special rights for the Office. In our country this could be solved, but in other countries extended rights of discretion might be a serious impediment.

The rule against handling individual cases of family conflict was important for several reasons:

- in the establishment phase to make the proposal acceptable, later because an office of this kind and size would have been unable to handle the volume if individual cases could be handled;

- a position as an institution of appeal in cases of family conflict would, I believe, have rendered the position of the Ombudsman in relation to case workers of various professions quite indefensible.

Most important of all was the conditions this rule created for working effectively without getting too involved in a great number of highly emotional issues.

This rule would have been unnecessary, if the mandate of the Office had been different. But even if e.g. compiling and presenting statistics had been its main objective task, children would have been important so that the statistics could demonstrate a "real life" picture of which conditions seem important to the children themselves.[3]

Autonomy and accessibility/availability stand out as crucial amongst the formal distinctive features of the Office. The autonomy of the Office was established by law, so it was indisputable. Accessibility to the population and to local communities all over the country was easily possible because of good communications systems and a high literacy rate. Accessibility between the national administration and decision makers and the Ombudsman was enhanced by the location of the Office.

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[3] One Nordic statistic (quoted in Andersson 1991) points out that "In Denmark 84% of the children has his own bedroom compared to 79% in Sweden, 78% in Norway, 68% on Iceland and only 49% in Finland". This does not tell us how many children there are in each family, the size of the room or the number of beds, whether children share bedrooms with siblings and/or parents, or whether sharing a bedroom is "good" or "bad", or how this changes with age. For a baby sharing a bedroom is probably the best, while for a teenager there might be other views, particularly if sharing with a parent.

In conjunction these factors made it possible to capitalize on the traditions in the decisionmaking process of:

- using legislation as a tool and;
- reliance on multidisciplinary research-based argumentation for opinions that carried weight within the system. This was imperative to the main way of obtaining results by having an impact on the prevailing attitudes and awarenesslevel regarding children.

The small size of the country and of many of the municipalities was an advantage: Active "bridge-building" is simple when the various groups are easily identified. Formal and informal contacts with political bodies and national administration is easier when there is a more limited number of people involved, some of whom moved from office to office, but still were possible to keep track of.

3. Alternatives to the Norwegian Ombudsman for Children

In international meetings arguments used for explaining why the Ombudsman model was chosen in Norway and may not be applicable elsewhere are that Norway:

- is a small and relatively homogeneous country;
- has a multiparty political system, and;
- has a long tradition of using legislation as a tool for improving conditions for weak groups of the population.

The question is: Would these traits make the establishment of an independent office of this sort less suitable:

- in other larger and more diversified countries;
- where legislation is not in the same way respected or implemented;
- where general participation in the decision-making processes on the local and national levels is not so common?

How important are one or more of them as prerequisites for establishing an Ombudsman Office?

In relation to the methods of work, it has been pointed out that the Ombudsman could function at all because Norway has a very high literacy rate and a very well developed telephone and postal system. As already described, these factors defined *methods* of work, but not the issues with which the Office was concerned.

In the choice of a strategy for children, the Ombudsman model does fit the decision-making process in Norway, the reliance of decisionmakers on experts, the lack of alternatives such as non-governmental organizations working for children, combined with the gaps in the social systems, particularly on the "cradle"-end of the "cradle-to-grave" security networks. (See discussion on Nordic countries page 81-84). But why do not all other small, homogeneous, multiparty countries have such an institution? Even Sweden and Denmark, which in addition have an even longer Ombudsman tradition than Norway, have *not* established an Ombudsman for Children. Are other factors than country characteristics of greater importance in considering the establishment of an effective mechanism to improve conditions for children?

3.1. Are Norwegian children and their problems country-specific?

The word "Ombudsman" is Scandinavian, but trying to improve legislation protecting children, raise awareness of children, families, and their needs, increase general understanding of how a changing society impinges on children, and suggest measures to protect values, compensate for losses, to create the best possible conditions for growth and development are all efforts being made in different ways in different countries. How similar are they? Which characteristics are common and in which ways do the various models differ?

Particularly compared to developing countries a different question must be raised: Are the problems of children in Norway special because these children live in an industrialized country with a strong economy and a Welfare state ideology?

The issue of applicability of the experiences from Norway and other countries to a monitoring system for conditions for children in developing countries and other countries with culture and traditions very dissimilar to Norway will be discussed in Chapter 8. A common characteristic of the institutions to be discussed *here* is that they are established in countries with similar statistics on some characteristics considered important for children. As is clear, the indicators are very different in some other countries, included here for comparison.

Table 32. Rating according to "under five mortality rate".

Rate nr.	Population millions	N° children		u5mr	imr	GNP per capita	Total fert
		under 5	under 16				
117 Norway	4,2	0,3	0,9	10	8	19.990	1,7
96 Costa Rica	2,9	0,4	1,1	22	18	1.690	3,2
103 Portugal	10,3	0,7	2,4	16	13	3.650	1,7
109 New Zealand	3,4	0,3	0,8	12	10	10.000	2,0
110 USA	247,3	18,3	56,6	12	10	19.840	1,2
113 Italy	57,1	2,8	10,7	11	10	13.330	1,3
114 Austria	7,6	0,4	1,4	10	8	15.470	1,4
115 Denmark	5,1	0,3	1,0	10	8	18.450	1,5
116 D (Fed.)	61,3	3,2	9,9	10	8	18.480	1,4
119 UK	57,1	3,8	11,6	10	8	12.810	1,8
120 Australia	16,7	1,3	4,0	9	8	12.340	1,8
128 Sweden	8,4	0,5	1,6	7	6	19.300	2,0

Rate nr.	Population millions	N° children		u5mr	imr	GNP per capita	Total fert
		under 5	under 16				
1 Mozambique	15,2	2,7	7,0	173	297	100	6,4
2 Afghanistan	15,7	2,8	7,1	169	296	280	6,9
3 Angola	9,7	1,8	4,6	173	292	1.130	6,4
4 Mali	8,9	1,7	4,4	166	287	230	7,1
5 Sierra Leone	4,0	0,7	1,9	151	261	240	6,5

(State of the World's Children 1991).

Number in left column is ranking amongst the countries of the world, a low number indicates high "under five mortality rate". The top group all belong in the group with lowest child mortality rate.

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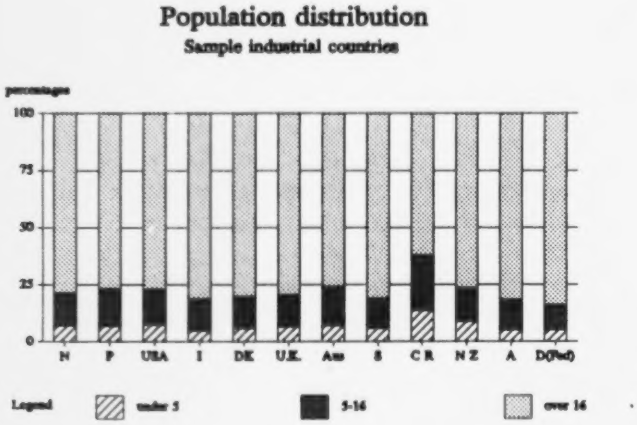
3.1.1. DEMOGRAPHIC SIMILARITIES

This ranking is done annually by UNICEF. Norway, as my point of departure, is placed at the top. With the exception of Costa Rica children under 16 years of age constitute less than 25% of the population in all the following industrialized countries:



With a fertility rate under 2,1 the number of children will not keep up the population. Therefore all these countries (with the possible exception of New Zealand and Sweden) share a prospect of a future when the elderly will outnumber the young. The fertility rate also indicates that the average nuclear family has at most two children. In these respects the countries - and presumably many of the problems of children - are similar. With the exception of USA, where an estimated 26% or more of all children live in monoparental families, the percentage is very close to 12% in the other industrialized countries of concern here (Cornia 1990). In other respects conditions vary more. In UK, for example, the number of children living under the poverty line doubled (from 9% to 18,1%) from 1980 to 1985 (Bradshaw 1990) while poverty dropped in Sweden and, most probably, in Norway (Cornia 1990). In spite of these differences, the conditions for children in these countries are more similar than in comparison with many other countries. This may be one reason for finding similar models in just these countries.

3.2. Existing models

There are three main groups of existing models to compare with the Norwegian Ombudsman for Children. Taking the Norwegian model as the basis for comparison does not reflect on the efficiency of the other ways of working, which may have strengths and weaknesses that the Norwegian model does not have. How applicable and important the tentative conclusions on the relative importance of characteristics of the Norwegian model may be in other contexts still remains to be seen. Comparison gives grounds for looking into these questions and raising some new ones. The three mains groups can be outlined as follows:

1. Ombudsmen for Children modified to suit the situation in a different country, but having the common characteristics of being established by public initiative and having an official relationship to government, national or local. (Costa Rica, New Zealand, Germany (Fed. rep.), Israel, Austria, Australia). Spain is also included, although this office is not specifically established for children.
2. Efforts encompassing parts of the responsibility of the Norwegian Ombudsman, established by private initiative, and without official standing (Sweden, Great Britain and Belgium serve as examples).
3. Other ways of working for the rights of children, which have little or no similarity with the structural model of the Norwegian Ombudsman.

Examples of some alternatives found in different parts of the world are briefly described below. For a more extensive survey, see Verhellen E. (ed.) Ghent, 1989.

3.2.1. OMBUDSMAN - TYPE OFFICES

These are in this connection defined as child rights initiatives that bear the similarity with the Norwegian Office that they are established by a *public* authority and have an officially recognized status in relation to that authority.

The following table shows which countries have this type of national or sub-national office and provides the technical data for each one. The following descriptions include more detailed information about establishment, jurisdiction, purpose (when available with relevant portions of the Act) and some indication of special responsibilities or problems confronted by each office (material provided for meeting on monitoring mechanisms, Florence November 1990).

Table 33.

	year	geo. area	n° children approx.	staff	funding		Ministry if any	independent Act	profession
					pub	other			
Norway	1981	national	900.000	4	100%		FAD	yes	psychologist
Costa Rica	1987	national	1.100.000	6	50%	50%	Justice	yes	psychologist
New Zealand	1989	national	1.000.000	4	100%		Social	no	pediatrician
Australia	1983	state	410.662	9	100%		Social	yes	social?
Austria	1990	state/city	270.000	2	100%		Social	no	social/legal
Israel	1986	city	1.900.000	2	100%		none	no	legal
Germany (FDR)		parliament	10.000.000	1/2	100%		none	?	politicians
Spain	1978	national	39.000.000	100	100%		none	yes	legal

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3.2.1.1. *Costa Rica*

The "Defensoria de la Infancia" was established under the jurisdiction of the Ministry of Justice by Presidential decree in September 1987 and its legal status was consolidated by its own law May 1 1990. Costa Rica, similar to Norway, had an "Ombudsman tradition", dating back at least 10 years. The first Ombudsman for Children, was sworn in by September 1988. The Costa Rican Office thus worked for more than two years before it was legislated. The new law established a group of Ombudsmen, one of them the Ombudsman for Children, under a General Ombudsman. The Ombudsman has complete autonomy in matters within his or her competence. In the event of hostile attitudes on the part of authorities or representatives, the Ombudsman not only has recourse to public opinion but - as established by the General Public Administration Law - also to superior offices of the Government and even to the President of the Republic.

According to the decree of 1987 the Ombudsman must "protect children's rights and promote policies, programmes, projects, research and actions to improve the situation of children". More specifically he or she must:

A. Receive and investigate complaints from single persons, groups, associations, societies and refer cases to appropriate entities.
B. Prevent the violation of children's rights by actions and recommendations directed to pertinent bodies.
C. Mediate and intercede between authorities to defend children's rights.
D. Propose reforms to established procedures, regulations or laws with a view towards improving all public services related to children.
E. Diffuse information about children through mass media, publications, seminars, workshops, etc.
F. Determine priority areas for the investment of material and human resources by institutions working for the minor.

The Costa Rican Ombudsman shall protect the *rights* - not the interests - of children, as the Norwegian Ombudsman shall. This to some degree determined the priorities of the Office during the first years.

The Office is composed of the Ombudsman, two counseling units and four operation areas. There is not, as in Norway, a fixed term of office for the ombudsman. Interestingly, a psychologist was the first ombudsman in both countries.

All institutions and governmental agencies must cooperate with, and offer advice to the Office whenever solicited. It has, moreover, access to all administrative documents or materials related to the investigation of cases, except when stipulated by law. The Ombudsman may delegate functions whenever appropriate and may obtain counseling from experts or commissions, as needed, to carry out his or her activities. It should be noted, however, that while the Ombudsman office has the power to question anyone it wishes, it has no power to punish and its decisions are not binding.

The Act of 1990 is general enough to cover the responsibilities of all the various Ombudsman Offices, so specific Instructions must be formulated for the particular responsibilities of each one. These instructions had not been formulated in July 1990.
Since its creation, the Office has participated with government and non-governmental agencies to conduct research on children and to develop strategies to promote children's rights, particularly in connection with:

- the ratification of the Convention (Costa Rica ratified the Convention in July 1990);
- the work being done to help street children;
- the efforts being made to sensitize the police to how children should be treated;
- a free and accessible telephone service, manned by volunteers, to deal with children's complaints and inquiries;
- a committee composed of social communication professionals

was formed to investigate and provide information about matters relating to children's interests;

- the Office designed campaigns and programs concerning specific aspects of the situation of children, such as child abuse, street children, minors in adult prisons, etc.

3.2.1.1.1. Has independence been jeopardized?

In spite of some extra help in the Ombudsman Office the capacity of the Ombudsman Office was somewhat reduced when in late 1989 the ombudsman (M. Viquez) accepted appointment as Vice Minister of Justice. In personal interviews when I visited Costa Rica in July 1990, a majority of sources were concerned because the possibility of vested interest was demonstrated, while a few felt that the prestige of the Ministry of Justice might enhance the prestige of the Ombudsman Office. With a change of political majority (in March 1990) and of the Cabinet in May 1990, Viquez was specifically asked to continue as ombudsman, while holders of other Ombudsman positions were replaced. This had also caused mixed reactions: Some saw the "re-appointment" as a personal tribute to a person too strong and valuable to remove from office. Others felt that the opposite might be the case: A non-threatening ombudsman might be better than a strong one. There was no consensus on short term consequences. Any long term consequences of the political appointment must remain to be seen.

I was unable to get from *any* source information about issues with which the Ombudsman Office was concerned that were also controversial to either of the major political parties. The parties agreed on the establishment of the Ombudsman Office(s) and the main issues of concern and effort on the part of the Ombudsman for Children.

3.2.1.2. *New Zealand*

In New Zealand the Commissioner for Children was appointed under a "Children, Young Persons, and their Families Act", passed by Parliament in May 1989. New Zealand had four ministries which "pursue specific class interests" (Hassall, 1991) and five agencies established under Acts of Parliament to respond to individual complaints a.o. The C YP & F Act "is the principal Law in New Zealand for dealing with children and young persons (i.e. those up to the age of 17 years) who need care or protection or who have committed crimes" (personal letter, Nov. 1989).

The Commissioner's functions, detailed in S411 of the Children, Young Person's and their Families Act which came into law in May 1989, are:

a) to investigate any decision or recommendation made, or any act done or omitted, under this Act in respect of any child or young person in that child's or young person's personal capacity;
b) to monitor and assess the policies and practices of the Department and of any other person, body, or organization exercising or performing any function, duty or power conferred or imposed by or under this Act, in relation to the exercise or performance of any function, duty, or power conferred or imposed by or under this Act;
c) to encourage the development within the department of policies and services designed to promote the welfare of children and young persons;
d) to undertake and promote research into any matter relating to the welfare of children and young persons;
e) to enquire generally into, and report on, any matter, including any enactment or law or any practice or procedure, relating to the welfare of children and young persons;
f) to receive and invite representations from members of the public on any matter relating to the welfare of children and young persons;
g) to increase public awareness of matters relating to the welfare of children and young persons;
h) on the Commissioner's own initiative, or at the request of the Minister of Social Welfare, to advise the Minister on any matter

relating to the administration of this Act;

i) to keep under review and make recommendations on the working of this Act.

Thus, four of these functions - a, b, h and i - are concerned with the administration of the Act itself including enquiry, appeal, monitoring, review and the provision of advise. Another four - d, e, f and g - are functions that do not necessarily relate to the Act, but are concerned with the welfare of children and young persons in general. They may therefore include matters of health, education, justice etc. They are investigatory, review, advisory and public advocacy functions. The remaining function - c - is one of policy and service development in relation to the Department of Social Welfare.

"In summary the position of Commissioner for Children was established under the C YP & F Act to monitor and review it and to act as a means of redress for those subject to the processes of the Act, and as a means of advice to the Minister. It was also the opportunity to establish a means of investigation, review, advice and publicity in relation to all matters affecting the welfare of children and young persons" (Hassall, pers. com.). The Minister referred to is the Minister of Social Welfare, but the office is free to investigate and report on areas "other than the Social Welfare area". The fact that the Office is "established under an Act administered by one Department of State... does not restrict its activities to that area and should not limit its independence..." (op. cit. 1990). Thus, the New Zealand Commissioner has undertaken initiatives in the areas of both health and education. Since the first Commssioner is a pediatrician it is perhaps natural that some health issues (e.g. crib deaths) have some prominence in his Office.

The person holding Office was appointed for a five-year term and can "only be replaced on retirement, resignation, or by Order in Council".

3.2.1.3. *Australia*

Australia is a federation of states. There is no statutory national body devoted to furthering the rights of children. The Children's Interests Bureau in South Australia is the only statutory children's rights group. Established in 1983 by amendments to the South Australia Community Welfare Act, it is partly subject to the direction of the State Minister of Community Welfare, to whom it is responsible, partly independent. Castell-McGregor (1989, p. 149): "The point has been made that the Bureau's close affinity to the Department of Community Welfare by virtue of being 1) set up under its Act and 2) be responsible to the same Minister, makes its genuine independence questionable. Suggestions have been canvassed such as establishment under a separate Act and responsibility direct to Parliament - similar to our Ombudsman (for Human Rights) system". In March 1988 the legislative basis was amended. The Children's Interests Bureau was required to give advice to the Minister of Community Welfare when a child should be taken into State care, or when a child's circumstances while "in care" are to be reviewed. Consequently a Child Advocacy Unit, with a staff of five, was established within the Bureau. "Its primary role is to monitor critical intervention points when "In Need of Care" proceedings are contemplated and to be present at reviews of children in care, particularly where there are significant changes proposed, such as variation of access, placement or return home. The Unit provides independent advice to the Minister of Family and Community Services in respect of any child "In need of Care" or who is under State guardianship. In addition, it provides a consultancy service to other professionals and lawyers acting for children. This is quite a unique approach - combining some aspects of the guardian ad litem concept with ongoing external monitoring and reviewing powers" (Castell-McGregor 1991).

Legislation establishing the Bureau under its own Act was passed by the South Australian Parliament in January 1991.

Under Section 26 of the Community Welfare Act, the Bureau has the following functions and duties:

a) to increase public awareness of the rights of children, and of matters relating to the welfare of children, by the dissemination of information, or by any other means the Bureau thinks appropriate;
b) to carry out research or conduct inquiries into such matters affecting the welfare of children as the Bureau thinks fit or the Minister directs;
c) to develop within the Department such services for the promotion of the welfare of children as the Minister directs;
d) to monitor, review and evaluate the policies of the Department in relation to children;
e) to carry our such other functions as the Minister may assign to the Bureau; and
f) to report in writing to the Minister, in accordance with his directions, on the work carried out by the Bureau.

Castell-McGregor (1991) adds: "While strict interpretation of the Act confines our role to "welfare", the Bureau in fact tackles almost anything *provided* there is a rights issue involved. The Bureau assumes it can effect changes and has taken up matters involving health, education, the environment and family law".

In spite of being a part of the system, the Bureau has had success in effecting major social welfare and legal reform from within the system. The Bureau has had a major impact on law reform in South Australia and is deeply committed to seeking change in legal systems which disadvantage children. The Bureau has been identified as a place with information about children's rights locally, nationally and internationally and it cooperates with Universities, colleges and schools, providing a specialist library to encourage projects, etc., on advocacy for children. The Bureau's media profile has increased concurrently with its reputation as a source of informed comment about a number of children's interests matters and as a source of information about overseas developments and current research.

The Bureau organizes seminars on topical matters affecting children and produces quality publications for parents and children, such as a guide in simple language on how the law in South Australia effects children. Co-operative academic research with university and professional colleagues has resulted in publications on family law, doctors' knowledge of child sexual abuse recognition, professional liaison in child sexual abuse management, to name a few. A major policy document on female circumcision has been accepted by all State social welfare departments as the basis for a uniform policy. A policy paper on the management of paediatric AIDS has likewise provided the basis for a national policy.

The establishment under the Community Welfare Act imposed limits, but did not prevent success. One reason might be that the Bureau was "very fortunate that in South Australia we have a Minister who is deeply committed to children's interests and has supported the Bureau's work at all times. To have an advocate at Ministerial level when resources are scarce is also a distinct advantage... We are fortunate too, in that the Bureau is accepted by all political parties and is used by individual politicians - Federal and State - as a source of information and advice" (Castell-McGregor 1988).

In 1990 Castell-McGregor (1991) asked: "Why has the Children's Interests Bureau been so successful in fulfilling its mandate? Some of the reasons are:

- Legal "teeth": The Bureau is established under an Act. Its legislative basis gives it, for want of a better word - some guts and a degree of independence from the government.
- Credibility: the public and professionals quickly identified the Bureau as a place to go with "rights" questions in whatever area (law, ethics, welfare, mediation, complaints). Through that most important tool - word-of-mouth - it was soon realized that the Bureau would *act*.

- Staff: A committed and hard-working staff team supplemented by a talented and respected independent group of Advisors appointed by the Minister has enhanced the public's view that here is a highly skilled group made up of people with reputations of excellence in their field and a known commitment to children.
- Focus: The bureau has a unified philosophy and a single focus - children and young people.
- Resistance and determination: We will not give up if we think an injustice has been done or is about to be done.
- Cooperation: We are not experts who fix everything. Cooperation is our preferred way of working. There are a number of other organizations in child advocacy whose efforts we back. There is no need to duplicate. We have also been very fortunate to work in a climate of genuine concern. All the statutory authorities with whom we have contact (notwithstanding that we have no investigative mandate) have been responsive to our suggestions. There is the political will to support the Bureau's work both financially and at a personal level from our Minister (and our previous Minister), from the Government and from the opposition parties.

3.2.1.4. *Austria*

Singer (1991) describes establishment: "One result of this climate (stronger interest in children in general) was the enactment, after years of discussions, of a new national Youth Welfare Law which contains improvements for foster parents, provisions for research and, in general, more regard for the needs and opinions of children. This law includes one small paragraph which introduces for the first time the concept of a "Kinder- und Jugendanwalt" (KJA), which literally translated means a solicitor or lawyer for children, and which can be roughly translated as "ombudsman"."

Under the provisions of the Youth Welfare Law, the KJA is allowed to give council and assistance to young people under 18 and to their parents in cases of disagreements with the welfare and education system, dealing only with single cases and not with broad issues. But the politicians have allowed the Office to function freely, so that the work, while based on single cases, is not restricted to these. For example the Office has pressed for an independent centre for children who are victims of abuse, prepared information, established work-groups and instigated research (on the conditions of refugee youth). The entire budget consists of salaries for the two staff members, so much of the activity is carried out by volunteers...

Activity is confined to Vienna, there established within the Office of Youth and Family. "It has become increasingly clear to us that the Office should not be attached to one department of the welfare system, but should have a broader mandate" (Singer 1991).

Each of the nine provinces in Austria has had a year to decide how to implement this law. "After one year, reactions from the provinces have varied greatly. Tirol, which is conservative, has decided to abolish the position of KJA. Salzburg, on the other hand, is examining the possibility of an expanded model which would consist of an Ombudsman, an advisory panel with representatives of all welfare systems, and a Children's Commission with representatives of each of the four political parties. The Children's Commission would have as its main function the review of proposed and existing legislation to determine if it is consistent with the interests of children" (Singer 1991).
The discussion on the national level (in October 1990) concerned the idea of establishing a national office on the federal level.

3.2.1.5. *Israel*

The the first and only Ombudsman was appointed in the late summer of 1986 by the Mayor of Jerusalem within a public Jerusalem Children's Council for children and financed by the Van Leer Foundation. The appointment was at first for an exploratory period of two years and later extended until February 1990 to "function as an informed advocate and lobby on behalf of the children of Jerusalem" (Rauche-Elnekave, 1989). The Council has a salaried staff of 2 (1989), and working groups for special fields. These working groups are chaired by experts and have 15 members. They report to a steering committee, who again reports to the municipal authorities.

The Ombudsman for Children and Youth was established as a pilot project for one of these working groups, reporting to the Working Group on Children's Rights. The Ombudsman handled complaints from individual children, even acting as a mediator between children or adolescents and their parents. A particular concern was children in institutions.

About the lack of legal status, Horowitz (1991) says: The advantages of being a "free-lance" ombudsman for an experimental period are considerable. He can investigate, and deal with, all complaints without constraints. And, on disadvantages: "Cooperation is, to a large extent, voluntary. "Sex appeal" of the institution and moral power do not always work... Bureaucracies do not like outside intervention and prefer to investigate complaints relating to their performance by themselves, if they can help it, and rationalize why this should be so... My legal status was rarely questioned, but I knew that I had no power, for example, to visit public or private child welfare institutions, or to examine their files, without prior consent. I found a lot of cooperation at the top of bureaucracies (ministers, director generals) and on the part of workers in the field who saw me as an ally working to bring about change. Resistance came, if at all, from supervisors in the child welfare and education system. They considered themselves as mini-ombudsmen and saw the intervention of an "outsider" as a signal of a failure in their own functioning".

The types of individual cases handled were - on the basis of written reports (Horowitz 1991) - similar to those handled by other Ombudsman Offices. In addition to the individual cases, he:

1) provided legal aid to children arrested by the police on criminal charges (95% of all children who appear in juvenile courts are not represented by a lawyer; 90% admit the offense);
2) initiated a campaign against the participation of children in lotteries;
3) focused public attention on the sale of alcohol to youngsters under 18 in violation of the law.

A bill was introduced in the Knesset in early 1988 to establish a national Ombudsman for Children, answerable only to the Knesset itself and working out of the office of the Comptroller General of Israel. As of May 1991, the bill had not yet been passed, nor had the proposal been shelved (personal communication).

3.2.1.6. *Germany (FDR before unification)*

By the definition of having been established by public initiative and having an official relationship to government, local or national (see above) West Germany also had an Ombudsman-type institution.

As a federation of states, a national office would be bound to have a different mandate. In order to meet the acknowledged need for special concern regarding the effects on children of the legislative process, the political groups in the Bundestag appointed one member each to have a special responsibility for this area. Together they constitute the "Commission for Children's Concerns", approved by the Council of Elders in Spring 1988. The commission is responsible to the Committee on Youth, Family Affairs, Women and Health, ensuring a part in the organizational structure and having direct access to the parliamentary fields of activity.

The main responsibility of the Commission is to review all Federal law proposals in regard to their effects on children and, if necessary, to influence them. The Commission must, however, be unanimous to present views to the Bundestag. According to Schmidt (pers. com.) "(It is) evident that policies concerning children's concerns must be implemented in a more intense fashion than ever before (at least for a while)". According to Schmidt (op.

cit.) the Commission wants to represent the interests of children in Parliament and outside, and give signals in regard to policies concerning children, intending - as resources allow - to be the partner and promoter of associations and organizations as well as institutions which support the interests of children. The list of their concerns is long, and in many ways similar to the problems of children in Norway. The Commission also is "genuinely interested in commissioners/commissions for children's concerns being appointed or set up in as many cities as possible and in the Land parliaments", (op. cit.) suggesting a network of branches all over the country.

3.2.1.7. *Spain*

Being established by law, a different type of Ombudsman Office also deserves mention, as an alternative that also is concerned with children. "El Defensor del Pueblo" (the People's Commission) was set up in 1978, its forerunners to be traced back to the 15th and 16th century when institutions to defend minors were in operation. The office is responsible for the human rights of the entire population, including 39 million minors.

The Commissioner himself has no decisional powers and can only mediate and persuade. His mandate is very broad. He is responsible for:

a) Receiving, assessing and, if necessary, investigating or referring *to other competent offices all complaints*, and raising issues on his own initiative, concerning the violation of fundamental human rights perpetrated by public officials or a public administrative office - including state, community and municipal offices.

b) Proposing reforms in the interpretation of laws and regulations and soliciting new norms which conform to the letter and spirit of the Constitution.

c) Denouncing the violation of constitutional rights if requested to do so by an individual whose case appears to be well-founded.

d) Denouncing the unconstitutionality of laws. This is the most

> important, complex and difficult task the Commissioner has to handle. He must question laws approved by the Parliament which has appointed him. From 1983 to 1988, the Commissioner denounced seven laws as being unconstitutional and succeeded in five cases to modify the national law. The Commissioner can also propose reforms for sanction by the Supreme Court.

Authority to Act for Children and Youth (up to the age of 18). The Commission's specific authority to defend and promote the welfare of children derives from Articles 14 and 54 of the Constitution and, in particular, from Article 39.4 which validates all international declarations and conventions protecting children.
The Commission may intervene in cases of intrafamiliar violence or conflicts. Because such matters are considered private, this is a very problematic area. However, if the Commission receives a specific complaint of ill-treatment, abandonment or abuse, it can and must make a report to the Public Prosecutor and to the Juvenile Magistrate.

The Commissioner can propose reforms to laws or regulations concerning children and youth. While "Pueblo" or people clearly includes children, the People's Commission received relatively few complaints from children (with the highest number from the 14-18 year old age group) during the first five years of its existence (1983-87). One reason for this is that there were, and still are, three other institutions directly responsible for children.

3.2.2. OMBUDSTYPE OFFICES FOR SPECIFIED PROBLEM AREAS

Public Ombudsman-like offices, i.e. offices which are aimed at changing social systems, institutions and structures that are an impediment to the optimal functioning of children, but responsible only for more restricted, clearly defined areas concerning children, have been established in, for example, Sweden, Great Britain (London), Belgium (Flanders). These (and others like them) have been established to strengthen the position of children and/or youth, to right wrongs, and to criticize when there was reason to do so.

3.2.2.1. *Sweden*

Sweden has one official office representing children's interests in one (large) area and private organizations (Radda Barnen, Save the Children and BRIS) working for the rights of children.

The public "Barnmiljørådet" (Advisory Council for Conditions for Children) developed from an independent committee advisory to the Ministry of Social Affairs on *playthings*, to an advisory council on *play conditions* to the Council on *physical conditions in general*, dangerous products, accidents, and planning. It works through recommendations, public seminars, and informational campaigns, and has formal as well as informal contacts with administration and politicians.

3.2.2.2. *Great Britain.*[4]

The Inner London Education Authority in 1985 discussed establishing an Ombudsman Office for their school system. One restriction was to be that no person under 16 years of age could apply to the Office. In my view this would seriously question whether the Office would be for children or for adults (teachers and parents). But the idea merits interest, being one example of a possible decentralization (in a country with 16 million people under 18 years of age).

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[4] In a policy document issued in May 1989, the British Labour Party, under the heading "New Rights Under the law" writes: "In our society children have no specific legal rights. We believe that, as a basic right children and young people need proper protection and safeguards from abuse and exploitation. They should also have more basic rights and more say in decisions which affect them.

Since children cannot by themselves sway public opinion nor have an effect on official decisions we believe that there is a need for someone to speak on their behalf.

We will therefore follow the Norwegian example and establish a Children's Commissioner. The role of this independent official, established by Act of Parliament, will be to promote the interests of children in the private and public sector. This will mean considering the impact of existing legislation and proposed legislation on children, collating and disseminating information on the rights and condition of children, and ensuring that the needs and rights of children are properly protected and respected". ("Meet the challenge, make the change - final report of Labor's Policy Review for the 1990s"). This policy does not at present have a majority in Parliament. Nor does the statement give any indication of how such an Office, for a population the size of Great Britain's, could be set up.

3.2.2.3. *Belgium*

"Kind en Gezin" (Child and Family) is a "semi-governmental" organization in Flanders, concerned with childcare services up to the age of 3, with one ombudsman for each of the five provinces of Flanders, and one coordinating ombudsman. This way of organizing ombudsman-like service will scarcely get many complaints from the children involved, but is interesting because it illustrates the possibility of splitting a more comprehensive service according to both age and type of problem area.

3.2.2.4. *Other developments*

In Canada a bill was introduced in the Parliament for the French community in 1987, for a "Children's Rights Commissioner", based on the Norwegian experience. Likewise attempts have been made to establish an "Ombudsman for Young People" for the French-speaking part of Belgium. In the USA a "Child Welfare Services Ombudsman" has existed since 1989 and in 1991 an Ombudsman for Children is being established in the state of Nebraska, USA.

3.2.3 COMMENTS AND COMPARISONS

The following section includes information obtained directly from the persons in the existing Offices, meeting in Florence 1990 to exchange experiences, and also to discuss monitoring mechanisms with 15 representatives from developing countries which at that time were considering or working towards the estblishment of a monitoring system in their own countries (Flekkøy 1991). Experiences of the existing structures described above were summarized as follows:

- In each of the countries, similar positive forces were working for improvement in conditions for children prior to the establishment of the structure. The expression of a national concern for children, the offices generally predate the Convention. Many of the structures were set up as a result of circumstance more than of top-down development planning.

- The International Year of the Child in 1979 was consistently an important factor leading to the establishment of these offices, which indicates that some kind of "outside" purpose can be useful as a starting point. The adoption, signature or ratification of the UN Convention on the Rights of the Child can become such a starting point.

- Growing public dissatisfaction with the existing child welfare structures was also wide-spread. In Costa Rica, for example, the public, and especially young people, were openly hostile towards the huge, impersonal bureaucracy. In New Zealand there was public uproar about child abuse cases. In every country, gaps in the system - for instance, the lack of preschool facilities or adequate medical coverage for children - were being criticized by individuals and the press.

- Within these societies, humanitarian institutions, religious or secular, were working to satisfy children's needs or to support children's rights. Traditional concepts of paternalistic charity were declining and being replaced by participatory approaches. Child rearing practices were also being reassessed. South Australian parents groups openly questioned the legitimacy of corporal punishment in schools. In Norway, physical punishment of children, even by parents, was strongly censured. Similarly, attitudes towards monitoring systems were changing.

They were increasingly viewed as a means of securing improvements rather than as a method of negative control.

- It was in this context that the political will to improve conditions for children gradually evolved, leading to legislative reforms and, where considered feasible, to the establishment by law of a specific office for children.

- All of the offices were set up in democratic societies and are the expression of democratic principles. In these societies, there is a general understanding of the concept of human rights, an independent judiciary and a traditional reliance on legislation to safeguard the welfare and interests of the individual, and particularly of the more vulnerable groups of society. Freedom of speech, freedom of association and freedom of the press are guaranteed constitutionally. There is a high literacy rate and mandatory public instruction has been functioning generally for at least one century. Mass media is highly developed and is used to inform the public and galvanize public opinion: it has, in every instance, made a positive contribution to the social awareness and understanding of children's problems. Communication's networks are efficient: good postal systems exist and telephones are widely used.

- The facilitating circumstances are a question of degree, *enough* political will, a *sufficient* number of interested organizations and/or an *adequate level* of understanding. It might have been a *combination* of factors which together were strong enough to make establishment of an Ombudsman Office possible. The political will to better children's conditions is a prerequisite for the establishment of a public office for this purpose. But, in Norway, there was only just enough political unity to carry the vote in the legislature; while in Costa Rica, the office was initially established by presidential decree, succeeding in a two-year period to create the political goodwill needed to obtain permanence through law.

- Each of the offices have functions which depend in part on its link to the legal or political system. Some are attached to the Department of Social Welfare or the Ministry of Consumer Affairs and Government Administration (responsible for general conditions for families and children) and are therefore service-oriented (e.g., the Norwegian Ombudsman and the South Australian Children's Bureau); others depend on the Department of Justice and may have a legal bias (e.g., the Costa Rican Ombudsman). Although the models vary structurally, they are similar in their roles. In general terms, each is an *independent* body, created to defend children's rights, with the following functions:
  - To respond to complaints and/or violations. This is a core function and the closest to the original meaning of the word "Ombudsman". It is a means for individuals (in this case, children) to overcome a faceless, inhuman bureaucracy by having their grievances identified and pursued by a personal advocate. This function can be variously described as "to right individual wrongs", "to humanize administrative relationships" or "to serve as a watchdog against abuse".
  - To influence legislation, policies and practices. Particularly at national and sub-national levels, this function is written into the instructions of the public offices. *"To propose measures to strengthen children's safety under the law"* and *"to ensure that legislation relating to the protection of children's interests is observed"* are parts of the mandate of the Norwegian Ombudsman, and similar provisions are stated in the mandates of the Costa Rican and New Zealand Ombudsmen. To be able to do this, the structure has to stand apart from, but be able to influence government.
  - To carry out or encourage research or establishment of a data base. The systematic gathering of statistical and more in-depth information on the conditions of children and families is considered to be essential for establishing and monitoring good family policies and is included in descriptions of all the offices with the exception of the

German Commission.

- To review the performance of government and independent organizations from the point of view of children's rights/interests.

3.2.3.1. *Summarizing characteristices of existing structures*

The following tables summarize similarities between countries in which there exist Ombudsman-like structures and the characteristics of these structures.

Table 34. Country characteristics.

	small country	homogeneous	multiparty democratic	literacy	communi-cations
Norway	+	+	+	+	+
Costa Rica	-	-	+	?	+
New Zealand	-	+	+	+	+
Australia	?	+	+	+	+
Austria	+	+	+	+	+
Israel	?	?	+	+	+
FDR	+	+	+	+	+

Table 35. **Characteristics of ombudsman-like structures.**

	Autonomous		Available		Prof.	Ind.	Law	Research	Govern
	econom.	by law	children	adults					
Norway	+	+	+	+	+	+	+	+	+
Costa Rica	?	+	+	+	+	+	+	?	?
New Zealand	+	+	+	+	+	+	+	+	+
Australia	+	+	?	+	+	+	+	+	+
Austria	?	?	+	+	+	+	?	+	-
Israel	?	-	+	+	+	+	-	-	-
FDR	?	-	-	?	-	-	+	-	?

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3.2.3.1.1. Autonomy and availability

Comparing the Offices of New Zealand, Costa Rica, Germany (FDR), South Australia and Israel with the Norwegian Office in terms of the principles of autonomy and availability, the common factor is that all of them have some kind of recognition from a public authority, the German of the Council of Elders, the Jerusalem Office through the mandate of the Children's Council. All of them have independence, but to somewhat different degree. The German and the South Australian are or have been inside the government, which raises the question of whether such structures for child advocacy should be located inside or outside government. Located within government, agencies may have more credibility with government officials, close contacts and an inside view of what is going on. But their accountability to the same officials they should criticize can compromise their neutrality and objectivity. Even though this may not be the case in every practical case, inside agencies are none the less more vulnerable to suspicion that they may be serving other purposes, as illustrated by the concern engendered when the Costa Rican Ombudsmann accepted political appointment. If there was a consensus in that case, it might be that it would have been better not to risk the neutralilty of being "outside" for any possible advantages of being "inside". A friendly government helps, as noted by the South Australian Office, but the picture might be quite different with local or national political opposition.

In the case of the German Commission it is difficult to visualize this as a measure that will be unhampered by other concerns, particularly party policy interests. The composition, with members of different political views, should to some extent counteract clear-cut party politics, but suspicions of other motives may be difficult to avoid entirely. The importance of this issue depends to some extent on the mandate: Keeping an eye on all Federal iegislation does not involve e.g. criticism of even the Federal administration, much less local or "Land" politics or administrative levels. The fact that decisions to propose amendments must be unanimous would seem to hamper the efficiency of the Commission to a great extent, *because* the members must have different political views on a great number of issues. It is in this context interesting to note that in spite of documented success within the system, the South Australian Children's Interests Bureau has proposed and obtained independence, by being legislated in a separate Act.

Another difference concerns accessibility, particularly to children, which is an important aspect of the Costa Rican and Norwegian Offices. The South Australian Office may get "grass roots" information, but only from child welfare/"in care" children - a parallel to the Jerusalem Office. Both of these handle individual cases of family-related conflict, which the others do not. The accessibility to "ordinary" children, parents and other adults not directly involved in one of the numerous associations and organizations which may exist is, in my opinion, imperative if an Office of this kind is to serve as a direct link between children and administrative/political decisionmaking levels, be a "voice *for* children" and not solely "on behalf of" children.

3.2.3.1.2. Questions which arise from comparisons

Comparisons raise new questions:

- What qualifications should such Offices have? Is the use of research essential?
- Should the ombudsman/Commissioner have a fixed term of office or not?

There seems to be a consensus amongst the existing offices that to gain and uphold credibility, factual information about children and their conditions (the authority of ideas and information) is essential. This is emphasized by the majority of those working in various offices. In his study of the Norwegian Office, Melton (1991) emphasizes the use of social science research as an important element for the Office, even pointing out that a special research arm should be established to strengthen the Office. The New Zealand

Commissioner also points to the importance of a research base (personal communication, March 1990), and the Costa Rican Ombudsman is a psychologist and makes use of psychological knowledge. His previous experience was working within the prison system, which might enhance his credibility in relation to the Ministry of Justice, to which his office is associated. The Viennese staff consists of a psychologist and a lawyer/social worker, a combination they find most useful (pers. com. October 1990). Turning the question around, if an office for children is to be recognized as an authority on children, what *other* basis could it have? Some, for example, the Norwegian, have pointed to areas of expertise which might be useful, such as socio-economics (to provide cost benefit analyses of child-related efforts). In other countries medical/health expertise might have been even more important. But it would even then be child-related, expert knowledge.

Yet the answers to these questions may depend to some extent on the purpose of the Office. If the Office is to capture the public's attention about children's concerns (even if only on a superficial level) the ombudsman should, perhaps, be a person known for his/her ability to galvanize attention, particularly if the mass media were willing to pick up the issues and increase pressure on politicians. There is a limit to how long the press will keep single issues "alive". So there is a limit to how long such an approach would be useful. The long-term credibility of the Office cannot, I believe, rest on such strategies alone, even with the help of the media. If the superior of the Office is this kind of public relations-type person, it is, in my opinion, absolutely necessary that two other requirements are fulfilled:

1. the staff as a whole has high-level professional expertise about children. A small staff cannot cover all areas, but at least many of the following fields:
    - the normal and abnormal development of children, physical and mental;
    - family-child dynamics;

   - family and child law;
   - the sociology of the community;
   - knowledge about the administrative and political systems of the community.
2. The person in charge must be able to collaborate with and draw upon the expertise of the other staff members.

3.2.3.1.3. A fixed term of Office?

The qualifications question can usefully be seen in connection with the question of whether or not to have a fixed term of office. A fixed term has the advantage of making it possible to bring in an innovative approach (see page 361) or to choose the kind of person wanted in the Office at any given time. It might, for instance, be good to have an attention-galvanizing person in office for a period, and then have another kind of person take over. On the other hand, with a fixed term (or two, with a maximum of 8-12 years in office) a very useful person cannot be kept on. And there may be another definite disadvantage in having a fixed term: People with experience enough to serve in an Office of this kind are often not very young. If they have to leave whatever job they had and then must face the insecurity of trying to get a new job when they are 8-12 years older, many qualified people would hesitate. Thus a fixed term can reduce the number of qualified applicants. In Costa Rica the problem is solved by giving the ombudsman status as civil servant, which in their system means that if the person is moved (or leaves office) he or she will get a different job, on the same income level.

3.2.3.1.4. Sub-national branches?

Comparison finally raises the very important question of regional or local offices or branches. The German Commission expects offices in cities and the "Land" level. The South Australian Office is local in the sense that it serves one state, not the entire country, and the Vienna and Jerusalem Offices serve one city. The Costa Rican, Norwegian, and New Zealand Offices are national. This is where the question of the size of the country really may make a difference. The three national offices are all located in countries with around four million people. Yet, in discussing ways to strengthen the Norwegian Office, Melton (1991) says that "The staff... should be substantially increased in order to permit establishment of county-level offices". He thinks that decentralization of children's programs and budgeting by block grants *now* (but not necessarily in 1981) necessitate county level scrutiny of "policy at the level at which much of it is now made, while keeping sufficiently few offices that central direction still is easily feasible and the number of new staff required would not be overwhelming" (op. cit.). County-level in Norway would mean 20 branches, but not on a level where the really important local decisions are made, which is in the 450 municipalities. Never the less, the counties do have a certain supervisory responsibility in relation to the municipalities, which might be expanded to include Ombudsman for Children functions.

Bob Franklin (1989) had the same view, but for different reasons: "...unless the post becomes decentralized replacing a single national office with a number of local offices, then the weakness is obvious; the system can handle only a very limited number of cases (763 in the most recent report) and is dealing very much with the tip of an iceberg". The points are interesting, but must be seen within the Norwegian context. Given the same proportion between number of cases and number of minors, the number of cases in Great Britain (with 16 times Norway's number of minors) would have been nearly 15.000 cases in 1988. It is much harder to estimate how many additional *issues* would have come up. In addition to population size, the very good postal and telephone services makes the office available all over the country. Argument against local branches in 1981 was connected with the rule against involvement in family conflict, and the fact that there were already municipal and county services to help with such problems. Conditions have changed: block grants and local independence have had effects on conditions for children. On the positive side amendments of the Building and Planning Act (which went into force in January 1990) should secure protection of children's interests in all planning and provide a specific person in each municipality to whom parents and children can turn in such matters.

Yet, *one* national office with no local branches may be insufficient. Even with a large staff, the contacts and connections with "problems where they really exist" may then become too difficult. Existing models may in a sense indicate how a national network could be built up: The West German model indicates one possibility, having started "at the top", but expecting to have branches, presumably reporting to the Bundestag Commission, from cities and "Land"-levels. The South Australia Children's Bureau might conceivably be a step towards a similar structure, starting at the other end, with one local branch. Similar offices might be created in the other Australian States, with a Federal Ombudsman for Children to coordinate the work of the State Offices, propose federal legislation and monitor federal government actions concerning children.

The Inner London Education Authority project and the Swedish Council for Physical Conditions for Children indicate a possibility of decentralizing by sectors: One ombudsman for education, one for health, one for child welfare, one for rural planning etc. Being restricted in the sense of having a clearly defined problem area might lead to greater efficiency within that area. While this might give highly specialized Offices, the danger of compartmentalization (with water-tight sector-compartments) would need to be counteracted by having an "umbrella" Ombudsman Office. One of the advantages of a *less* restricted, particularly national office is the insight into and the possibility to point out connections and interrelationships between various areas and sectors with impact on children, less obvious to a sectorized office.

One conclusion becomes clear: For true monitoring and rapid effect, the Ombudsman needs to be near the decision-making level, on the municipal, county, region, and/or state level, depending on where the decisions with impact on children's daily lives are really made. However, a national "watchdog" is always needed as well, because every country has national administration, national politicians, national legislation important for conditions for children, in many cases setting the limits for what can be done on a local level.

3.2.3.1.5. A Minister for children? Or a Coordinator for ministries?

The proposal for having a "minister for children" has been made in Norway and in Great Britain. Brazil established a ministry for children in 1990. Such proposals may be less similar than they seem superficially due to the different contents of the term "minister". In Norway this would be a cabinet (Council of State) member, with a ministry, an administration and a budget, while (as Bob Franklin describes it) in Great Britain "the post would probably be at a junior non-cabinet rank and lack political clout" (op. cit. p. 55). Others suggest that even a junior minister could exert influence by raising the child issue publicly, at the right political moment.

At the bottom of both proposals is the concern for lacking coordination between different ministries and different sectors, the latter on local as well as national levels. The office of minister is irreconcilable with the functions of an Ombudsman for Children responsible for monitoring and if need be critisizing the Cabinet as well as the ministries (including a Ministry for Children). Coordinating efforts should be a concern in all countries. There is no doubt that better coordination would prove financially beneficial. But even a Ministry for Children, Youth and Families should not exclude or prevent establishing or strengthening other initiatives.

3.2.4. EXAMPLES OF NON-PUBLIC CHILD ADVOCACY EFFORTS

Other existing child advocacy efforts range from street-corner legal advice "shops" (e.g. in The Netherlands), and local "Hot-Lines" or contact telephones, to national organizations and branches of international organizations, working in their own countries and internationally. Only a few examples will be described here.

Private organizations certainly have their place in the work for children's rights, choosing methods according to conditions in their countries as well as to their special interests, which may be special groups of children or special fields of action.

The Children's Legal Centre, based in London, undertakes research and training as well as lobbying central and local government on issues related to children's rights in general. They publish a newsletter regularly and have no doubt obtained results, particularly in legislating legal rights for children.

Others have a special group of children as their main concern. The Children's Defense Fund (CDF) in the USA demonstrates clearly how the size of a child population within a country in itself influences the choice of target area. While CDF does work for all children, its very strong emphasis is on poor children, minority children and handicapped children. The organization accepts no government money nor do they identify themselves as a "children's rights" organization in the sense of focusing on children's civil liberties (J.D. Weill 1989). CDF is more of an anti-poverty, anti-discrimination group, advocating greater services and support for children and families. Looking at their results, there can, however, be little doubt that these strengthen the rights of children outside of their stated target groups. Laws giving foster children the right to decent care or "all American children a greater right than they ever had before to obtain support payments from the parent who is not in the home" (op. cit.) and a right for children born out of wedlock to bring paternity actions and seek child support may concern the target groups most, but are also examples of rights covering a greater number of children. CDF's priority areas are education, maternal and child health, family income, child care, adolescent pregnancy prevention, and foster care. The CDF works through lobbying, based on broad situation surveys and consequence analysis, bringing trial cases to court, public education and technical assistance to agencies and service providers. They also try to ensure that laws are carried out by federal, state and local governments, and use television, radio and advertising to e.g. discourage teen-age pregnancies.

The methods used by the CDF are not available to an Office like the Norwegian Ombudsman. This is not only due to the restrictions in the Ombudsman Act, but to conditions and traditions in society. Class action litigation is not used in Norway. In part due to the welfare state services, hardly anyone needs to sue for damages or for financial compensations for expenses connected with illness or handicaps, regardless of how these occurred. Having virtually a state monopoly in television and radio, possibilities for running campaigns are closed to the Norwegian Ombudsman Office unless the decision is made by the television company (and then without cost to the Office). Broadcasting time is not for sale and can therefore not be bought. (An envious note may be detected here; but had such time been available, the budget would not have allowed extensive use of this in any case).

In relation to autonomy, purpose, and availability the CDF secures its autonomy in relation to government by rejecting public funding. Whether or not there are individual contributors (persons, business firms or other organizations) in relation to whom CDF could find themselves under obligation (which seems unlikely) could be decisive for final autonomy.

CDF is not available to children/young people in the sense of receiving complaints from individuals. There can be no doubt, however, that other measures of availability are satisfied: providing information, views etc. for other sources (e.g. politicians) is one of CDF's main techniques.

Using autonomy and accessibility as yardsticks again, organizations certainly may have autonomy. Their independence in relation to government is indisputable, unless funding from government sources involves curtailing or muzzling. On the other hand a lack of any kind of formal relationship to government weakens the possibilities for a substantial impact on the policy- and decision-making levels.

A weakness of non-governmental organizations in relation to broader issues, such as child rights in general, is that their scope is often more limited. This can, however, also be their strongest point. Located in the smaller or larger community in which they work, organizations can asses the overall situation for children, including availability of public and private efforts, and determine what may missing or especially weak. Being free to choose their own focus, the organizations can put in a concentrated effort on those points.

With the exception of organizations with children as members, the organizations are rarely accessible directly to children. Organizations with children as members often have aims which are not very easily compatible with working for the rights of children, e.g. sports, music etc., and many of them lack communication-channels to the decision-making bodies. Gradually, however, some of these organizations are realizing both a need to modernize their programs and strengthening their possibilities for involvement in child- and youth-related politics. Some are even beginning to use their own "parent" organizations (if they have one) as a way to the top, e.g. political youth and children's organizations.

CHAPTER EIGHT

After 1989: Visions and Views

Introduction

This chapter attempts to give answers to the main issues raised in the introduction to this study:

1. To what extent can the experiences of the Norwegian Ombudsman for Children be useful in other countries, particularly as related to the United Nations Convention on the Rights of the Child?
2. Can child-related social science knowledge, developmental psychology in particular, be used effectively in order to improve conditions for children, in work carried out and measures taken on a national level?

In November, 1989 (three months after I left office) the United Nations Convention on the Rights of the Child[1] was adopted unanimously by the UN General Assembly. The first section discusses briefly the characteristics of the Convention as related to other international human rights instruments. The question of whether the Convention is universal or applicable all over the world is a key issue. The more widely acceptable it is, the more useful it will be not only for improving conditions for children, but also as an instrument for child advocates, including child professionals. The mechanisms for implementation and monitoring on the international and national levels are discussed in the second section in relation to the experiences of existing models to answer the question of how these experiences can be useful in other countries, particularly developing countries. In particular the relationship between the Convention and child development knowledge, with respect to issues which should be of particular concern to child related professions and child workers is discussed. The issues concerning children as active participants are briefly raised before closing conclusions are drawn.

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[1] Hereafter called "the Convention".

1. The UN Convention on the Rights of the Child

One notable feature of the Convention on the Rights of Children was the speed with which the idea of rights for children was accepted, once introduced (as noted above page 42). Once the drafting process was over, the Convention was accepted with exceptional speed by the United Nations, and following adoption, by September 1990 a sufficient number of countries (20) had ratified to bring the Convention into force as international law. An unprecedented number of countries had signed. By May 1, 1991, the number of ratifications was 78 and signatories included 55 other countries. Only 15 months after adoption the first Expert Committee on the Rights of the Child had been elected.

1.1. Special characteristics of the 1989 Convention

Going back to the seven reasons outlined for acceptance of a new international Convention on the Rights of the Child (page 30), the question arises as to whether or not the 1989 Convention fulfills the purposes suggested in 1979.

1.1.1. THE CONVENTION TRANSPOSES MORAL STANDARDS FOR CHILDREN INTO BINDING INTERNATIONAL LAW

The UN Under-Secretary-General for Human Rights and the Executive Director of UNICEF have in similar statements (circulated to UNICEF) seen the Convention as "a firm foundation for a new ethic for children, an ethic that defines children as individuals with inalienable rights of no less value than those of adults". These statements must reflect a general attitude within the United Nations, i.e. the majority now accept that children, like adults, should have rights. In so far as this is true, the Convention does reflect a change of attitude to children.

Transposition of ethos into law is true of other human rights treaties including children as well, so this must be seen in conjunction with:

1.1.2. THE CONVENTION IS MORE COMPREHENSIVE THAN PREVIOUS INSTRUMENTS

The Convention puts together in one document the human rights of children, in terms that reflect the special vulnerability and the changing needs of the growing person (specified in terms of "the best interest of the child" and "the evolving capacities of the child"). The rights already protected by other covenants have been restated, tailored to the needs of children and in some cases strengthened. The text on e.g. discrimination is stronger than the "Discrimination Convention" on behalf of children, providing protection against discrimination even due to the child's parents or family. Rights have been included which have not been stated in previous instruments or were included only in regional human rights treaties, while some covenant rights have been omitted as unrelated to childhood.

In stating obligations of States Parties, the obligation to protect and support children therefore includes areas not previously covered by an international convention.

The Convention thus seems to fulfill at least the first five of the seven reasons stated for acceptance of a Convention (page 45):

1. The predominant attitudes to children had changed so that the Declaration no longer reflected the needs and hopes of children.
2. The Declaration was not effectively preventing discrimination of children. The United Nations must not only protect, but actively promote the rights of children.
3. The vulnerability and immaturity of children necessitates a higher level of protection than they could get through other existing instruments.
4. Implementation of the rights of children demand the use of other principles than interpretation and implementation of the rights of adults, i.e. the principles of "the best interest of the child" and "the evolving capacities of the child".
5. The need to collect in one document and to standardize the rights of children as presented in other instruments.

6. Neither the Declaration nor the two 1966 Covenants are complete where the rights of children are concerned.
7. The International Year of the Child gave member States an additional reason to accept the notion of a Convention.

   Whether or not point 6 is fulfilled would seem to be a matter of personal opinion, e.g. concerning views on "the right to life" or children's participation in armed conflict.

As described in Chapter Seven, the IYC was important for the establishment of Ombudsman-related Offices for Children as well as for the work with the Convention. The IYC can no longer be used to justify the Convention, but the Convention itself is a new justification for implementation, for improving conditions for children.

In addition, the Convention has other elements which should be emphasized in this connection:

1.1.3. THE CONVENTION PROVIDES A MEANS AS WELL AS AN OBLIGATION TO MONITOR CONDITIONS FOR CHILDREN

The Convention provides (through the Expert Committee on the Rights of the Child) a means for monitoring progress for children on the international level and encourages establishment of national level monitoring.

1.1.4. THE CONVENTION AUTHORIZES CHANGES AND SHOULD THEREFORE EQUALIZE LEGISLATION, RESPONSIBILITIES AND SERVICES CONCERNING CHILDREN

In many countries ratification of the Convention will necessitate legislative amendments. For example, in Norway articles regarding e.g. treatment of juvenile delinquents and young refugees and asylum seekers must clearly lead to changes in legislation and/or administrative practices. In other countries with either a distrust in the power of legislation for instigating change or a tradition of disregarding the principles stated in law, the Convention as a legal tool may be less powerful. The respect for children and the knowledge of children's needs upon which it is built should nevertheless have some impact, because the Convention can be used as a political platform, help change attitudes, and illuminate the need for child advocacy, even in countries that do not ratify. The Convention makes it more feasible, even obligatory, to raise even sensitive issues, for the attention of top-level officials and politicians. Work to map conditions for children as related to the Convention has already uncovered problems hitherto unrecognized in some countries, e.g. the discrimination of the girl child in Kenya. (Reported at ICDC, Florence, July 1990). In other countries concerted efforts to make the Convention known and to put pressure on political bodies to ratify it have created new alliances between national and international non-governmental organizations, e.g. in Egypt (op. cit.). In some cases the Convention has been used to involve children and young people in decision-making processes, mostly on a local level, but also in a few cases leading to having an impact on the amendment of the national Constitution, for example in Brazil.

The requirements of the Convention and the guidelines eventually prepared by the Expert Committee on the Rights of the Child will serve as yardsticks for action. One of the obligations of States Parties (article 4) is to "undertake all appropriate legislative, administrative and other measures for the implementation of the rights recognized in this Convention. In regard to economic, social and cultural rights, States Parties shall undertake such measures to the maximum extent of their available resources and, where needed, within the framework of international cooperation". This obligation, as illustrated by the examples, indicate that the Convention will have a major impact for an increased international equality in national legislation concerning children and in the distribution of responsibility for children between the State, organizations and individuals.

1.1.5. THE CONVENTION BINDS TOGETHER LEGAL RIGHTS AND CHILD DEVELOPMENT KNOWLEDGE

When the Convention entered into force September 2, 1990 UN Secretary-General Javier Perez de Cuellar pointed out: "Besides incorporating the whole spectrum of human rights, the Convention stresses that respect for and protection of children's rights is the starting point for the full development of the individual's potential in an atmosphere of freedom, dignity and justice... Above all, the Convention attempts to provide a framework within which the child, in light of his or her evolving capacities, can make the difficult transition from infancy to adulthood". This is worth mentioning because the Secretary-General can hardly make a statement of this kind without knowing that he has the support of the member States. Thus, it is with the acceptance of the United Nations the Convention charges States Parties to approach children and their needs and capacities developmentally. In other words: Implementation of the Convention requires utilization of knowledge about the physical and psychological needs and development of children.

1.2. Will the Convention be applicable all over the world?

Table 32 (page 386) shows that there are important similarities on indicators for the conditions of children in the industrialized countries and wide differences between these and developing countries. It is natural, therefore, to ask if the Convention reflects the conditions, norms and attitudes of industrialized countries and therefore will be less useful in other countries, other cultures.

1.2.1. THE INPUT OF "NON-WESTERN" COUNTRIES IN DRAFTING AND ADOPTION

The argument of being "Western" has been raised in connection with other international human rights treaties. It is therefore worth pointing out that the Working Group did have representatives of other cultures, for example, Islamic cultures. Algeria, Argentina, Bangladesh, Senegal and Venezuela did participate, the other countries were invited, did receive documentation, but did not come. This applies to other countries as well. Cantwell (1988) points out that "in the same vein one can ask why e.g. the Holy See has been represented, but not Iceland". Compared with the total number of countries in Asia, Africa and Latin America, there were not many representatives of developing countries. There were different views on why and on the consequences. Ekdahl (1988) says that the developing countries were not well represented (numerically), but that the representatives there were all the more active. The implication must be that quality made up for quantity. Barsh (1989) says that few non-European governments participated actively... "those which have, such as Senegal, have grown frustrated with their relative lack of influence". All representatives had the possibility of blocking adoption of articles, because the process of drafting the Convention was one of consensus, so the articles must have reached a shape that the representatives of developing countries could accept before they were adopted.

At the next step the Convention was adopted unanimously by the United Nations General Assembly, of which two thirds of the members come from the "Third World", more than half from African and Asian nations. The Convention therefore sets out, in general terms, international agreement on the rights of children and on States' obligations towards children, both directly and indirectly, the latter in terms of enabling parents or other adults to carry out their responsibilities to the children. The Secretary-General made this clear at the signing ceremony when he emphasized that the Convention recognizes the equal worth of the diverse cultural values of the human community. Each culture has morals, ethics, religious beliefs which guide the behaviour of its members. If or when the Convention does conflict with some of these older rules and ideals, these countries, like Islamic countries, will be able to make reservations, e.g. will agree to comply, "as long as this is not in conflict with Islam". Such reservations will be accepted as long as they do not go against the purpose of the Convention. On the other hand, the "savings clause" (Article 41) invites application of other international treaties with stronger claims on any point (e.g. the Convention on Elimination of all Forms of Discrimination against Women, which may be an advantage for girl children). Stronger national law also supercedes the Convention, and there is no objection if a country wants to strengthen the position of children, simply by adopting national laws that are stronger and therefore supercede the Convention.

Following adoption, as of May 1, 1991, 10 Asian and 28 African countries have ratified, nearly half of the total of 78 ratifications.

1.2.2. SIMILAR NEEDS, DISSIMILAR ATTITUDES

The most important reason why the Convention *should* apply to all children is that the basic *needs* of growing children are the same all over the world. The interests of children are neglected in every country, although not in the same ways or to the same degree. The preamble to the Convention states that "...in all countries of the world there are children living in exceptionally difficult conditions...", which means that all over the world children share a need for stronger initiatives on their behalf. The acute problems of children are not the same in all countries. But with the same basic needs, there is no reason why the rights of the Convention should not apply to all children. The different ways each community will choose to meet the needs or to allow for their expression does not change this.

Attitudes towards children, expressed in law or in practical terms, may have different implications in developing and in industrialized countries.
Dias (1988) points to the actuality of this in the Third World:
Law can establish legal barriers, or legal obligations. Law can protect (e.g. against exploitation) or establish the right to special services. Behind these different purposes of law, the (public) attitudes to children can be diverse:
1. The child (perceived as) as a burden or a responsibility leads to

the right to receive support and aid.

2. The child as vulnerable leads to the right to protection.
3. The child as a valuable resource for the country leads to the right to nutrition and development.

Socio-cultural and economic conditions in the Third World have led to other views on children too. In extreme cases, for example, due to dire need, children are viewed as objects of trade and sold for profit, which in addition has the consequence for the family that there is one less mouth to feed. Children are seen as cheap labour, unorganized and exploitable, as an insurance against the problems of old age in societies lacking a social safety net for the elderly or as a social burden, which in the most extreme cases leads to infanticide (particularly girls) or abuse (particularly children born out of wedlock). Children are sold, married, hired off as servants, left to die. They were maltreated and abused. They must earn their own living or help provide for a family. They are physically, sexually, emotionally abused or maltreated and they are exploited. The question then is one of how the Convention can be used to modify or change the circumstances that lead to such actions and the public attitudes towards children.

In industrialized countries, the small size of the family causes other concerns: Politicians are pointing out that if parents do not have more children, there will not be a sufficient number of adults 30 years hence to care for the increasing number of old people, to pay taxes to cover the costs of the system, not enough consumers or workers for the labour force. Politicians may even be willing to invest in children for the sake of securing future adults, although this still remains to be seen.

Publicly expressed views towards children may change more over time than parental attitudes. (See Chapter One, page 37 and Chapter Six, page 361). If this is correct, the various elements of the total picture may surface in different cultures, but also under different conditions in a society, as described by Dias above. But these ways of treating children are no longer *universally acceptable.* The

Convention gives the child protection rights, development rights and the right to voicing opinions and participating in decisions concerning his/her person. Who decides whether the child is capable of making these decisions is a different question. The decision may be governed by what for instance parents consider practical or determined by their own reluctance to give up power.

Turning the issue around, perhaps making the decisions is one way to develop decisionmaking capacity. Street children (see Chapter Two, page 67) are making decisions which are a matter of living or dying from an age where children in other circumstances are still protected, perhaps too much. As long as - and to the extent to which - the child is actually unable to (help) decide for himself, it may be necessary that the parents or other adults have the responsibility to decide, but then in the best interest of the child. Acceptance of the child's principle right to have opinions and to make decisions if he is able, creates a condition for parental decisions that is far removed from the view that parents have absolute power over their minor offspring.

1.2.3. CAN STATES PARTIES PRIORITIZE ARTICLES?

The Convention is comprehensive in the sense that it describes rights for children as being indivisible and mutually reinforcing. Representatives from developing countries (e.g. at international meetings at ICDC, Florence) have claimed that some rights of children are more important than others. The right to survival must, they say, be fulfilled before one can begin talking about development rights or participation rights. In this respect they are using Maslow's levels of needs (page 32-33). But this is confusing rights and the initiatives needed to provide for the needs of children. If children are starving or dying from avoidable diseases, it is reasonable to feed or inoculate them first. But that does not mean that other rights should be forgotten or can be neglected. The Executive Board of UNICEF has pointed out: "What is the use of bringing up children in the world if we cannot ensure their survival? What is the use of ensuring their survival if the lives they are going to have are not worth living? The "quality of life" ethic is thus coupled with the "value of life ethic". Recent studies (Oates et al. 1984; Glaser et al. 1980; Chavez & Martinez 1979; Stoch et al. 1982; McKay et al. 1978) in industrialized *and* developing countries have indicated that nutritional intervention is a necessary, but not sufficient mode of treatment for infants suffering from early malnutrition. Nutritional treatment may restore physical growth, but does not bring developmental functions back to normal unless coupled with focused and sustained developmental stimulation. The question has been raised if sensory deprivation may lead to a less than optimal digestion of nutrients. If so - or in any case - it would be a mistake, when initiatives and efforts are being made to preserve life, not to consider at the same time how this should be done to ensure that the children saved will develop optimally. In this connection the means chosen, based on knowledge of the psychological as well as the physiological needs of children can make the difference between a healthy and a not so healthy mental development.

A different aspect of this issue if whether or not rights should be granted to children if these rights cannot be maintained during their lives as adults. To educate and train a youngster for a vocation is in itself important, but the importance is limited if the child cannot get a job later on. This high-lights the need to tailor education in such a way that its use is flexible and can be adjusted to an employment situation of which little is known now, confronting a young person five or ten years hence.

The conclusion then is that the Convention in principle is - and in practical terms should be - applicable for all children in all countries. The secondary conclusion is that knowledge of the needs of children and child development is indispensable even where the difficult situation of children focuses efforts on the basic physiological needs (Maslow's level 1).

2. Implementation and monitoring

Each country must find ways to meet the needs of children, tailored to what needs to be done and which ways will fit in with the cultural context. The Convention is not a manual in the sense that it describes practical implementation procedures. It may codify attitudes, but the real results depend upon implementation.

2.1. Monitoring implementation, the international level

The term "monitoring" is here used in the broad sense of "keeping a constant surveillance upon" (Oxford Dictionary). A monitoring body is not seen as a *passive* recipient of information, but includes *active* development of, for example, interventions, extensions of information bases, etc. A more complete definition of monitoring as a system would be that it creates structures that make it difficult to do anything but behave in a (defined) way, in this connection with respect to children.

Monitoring the Convention will be done on the international level, but national and\or sub-national monitoring is also encouraged, e.g. by the NGO ad hoc Committee on the Rights of the Child.

States Parties will have an obligation to report regularly to the international "Committee on the Rights of the Child". But countries that do not ratify will also be under scrutiny. *Why* have they not ratified? Does their ratification process take a long time? Or do they feel they are so far away from the standards that it would be indecent to ratify, at least at the present time? Do they have a tradition for not signing international treaties? And what are they doing to improve conditions for children? Non-ratification of the Convention does not preclude, and in fact may underscore, the need for constant surveillance of conditions for children.

2.1.1. "THE COMMITTEE ON THE RIGHTS OF THE CHILD"

Part II (Articles 42-45) of the Convention concern implementation and entry into force. This section will focus on elements of special interest for effective monitoring of the implementation of the Convention, to some extent compared to monitoring systems of other Conventions.

According to the introductory article (42), "States Parties undertake to make the principles and provisions of the Convention widely known, by appropriate and active means, to adults and children alike". Article 44 (6) strengthens this obligation: "States Parties shall make their reports widely available to the public in their own countries".

Conventions will have little force if the rights are unknown to those entitled to the rights. The provision of distribution and circulation of States Parties' reports on the national level was not included in e.g. the procedures for the "Women's Rights Convention". It is important because it has the dual purpose of being one way to spread information about the Convention, but also to inform the public in general of a forthcoming presentation in front of the Committee. Thus NGO's and other concerned bodies within a nation can raise issues not included or comment upon the content of the report in other ways. Special groups and opinion leaders - such as religious groups, parliamentarians, teachers, etc. - could be kept especially informed on matters relating to children's rights. Existing mass media and communication channels could be exploited to create the necessary atmosphere for attitudinal changes and information dissemination. Advocates could also increase international awareness of particularly problematic conditions within their country. An increase in the general public's knowledge about the rights of children is not only an end in itself, but could also, eventually, have an effect on the government.

The Committee on the Rights of the Child was established according to the rules of article 43 February 20 1991. From a list of 35 nominees, 10 were elected by States Parties, 78 at that time. The members come from Barbados, Burkina Faso, Brazil, Egypt, Peru, Philippines, Portugal, Sweden, USSR and Zimbabwe. The ten members are "experts of high moral standing and recognized competence in the field covered by this Convention" (art. 43.2)... "and shall serve in their personal capacity, consideration being given to equitable geographical distribution, as well as to the principal legal systems" (op. cit.). The membership of the first Committee is of particular importance because the Committee will set its own policies and procedures, will be free to propose new formulations and modify or amplify roles for itself or the Convention. The UN Centre on Human Rights will be actively involved in proposing guidelines for the Committee, including guides for report preparation and indicators of development. The articles of the Convention are general and in addition the Convention must be interpreted in conjunction with other human rights instruments, e.g. the Convention on Women's Rights. Nor can single articles can be interpreted out of the context of the whole convention, but must always be seen in relation to other articles, particularly Articles 1 to 5 (the "umbrella provisions") and Article 41 ("the savings clause"). Finally each article must be analyzed from the perspectives of *the nature of the basic right, the nature of the basic obligation* (of the State) and the *specific elements which the States must address*. In connection with the nature of State obligation, it is important to note the differences of *degree* of obligation: A right can be absolute (like the right to life, at least after birth). Otherwise the State may be obliged to "ensure" (demanding action so that the right can be effectively exercised), to "respect" or to "recognize" (which is weakest). Further limitations lie in the way articles are worded, such as "the highest attainable" (standard of health) "to the maximum extent of their available resources" States Parties shall "strive to...". These may cause discussions, but the main point seems to be that States Parties shall demonstrate their will to improve conditions, as documented by their actual actions.

States Parties will present a report every five years to the Committee on the Rights of the Child, the first within two years after the date of ratification. This will be a government responsibility. The Committee reviews the reports and can also make suggestions and recommendations to the States Parties. This empowering provision (article 45 d) is an important asset in stimulating implementation at the national level. It is also an empowerment that is absent in the "Women's Rights Convention".

The Committee on the Rights of the Child has the benefit of previous experience on other points. The Committee can call on the specialized agencies, UNICEF and other competent bodies to provide expert advice and to submit reports on the implementation of the Convention in areas falling within the scope of their activities (Article 45 a). In addition the Committee "shall transmit to these bodies reports from States Parties that contain a request or indicate a need for technical advise or assistance...". These bodies may also attend meetings of the Committee. This establishes an active collaboration with other UN organs and with NGO's that is missing e.g. under the Covenant on Economic, Social and Cultural Rights (Van Bueren 1988). These articles also reflect the *positive* position of the Committee in relation to the States Parties. The Committee cannot deal directly with violations (which must be dealt with by the Committee on Human Rights). With a focus on violations it might be difficult for the Committee to establish effective dialogue with the States Parties. Children's issues are very much a question of policies and resources. So by focusing on progress and "difficulties, if any" (article 44.2) and by being able to provide suggestions and observations as well as technical advice and assistance, this Committee is probably in a better position than any other monitoring body to work constructively with each States Party. This is particularly important since the Committee will not have enforcement power in terms of sanctions and the collaboration of States Parties with the Committee is voluntary and each States Party will have to be judged on its own merits.

The Committee will report the General Assembly, through the

Economic and Social Council every two years.

2.2. Monitoring on the national level. The choice of a model or mechanism

The Convention should allow governments and advocates to address problems, and seek solutions to them, in a climate of international solidarity. For States Parties, it is also an important new instrument for the creation of a monitoring system, *one element of which* will be the government body responsible for reporting to the Committee on the Rights of the Child. The formal process of regular reporting and the obligation to make reports public and widely available within each country should provide an opportunity for independent advocates and government officials to come together to ensure that government reports place emphasis on issues which have clear priority and that their reports are not biased or incomplete. Therefore, an independent monitoring system could well be necessary or advantageous. If an Ombudsman (or ombudsman-related mechanism) is to uphold its independence and autonomy in relation to government, this mechanism should not be given responsibility for providing the national report.[2] An independent institution can provide the kinds of information needed to provide better services, based on research relevant to children in their own culture and to suggest improvement of structures for development of child centered policies, parallel to what the Ombudsman for Children has attempted. This will not only help children, but could help families and communities to meet their responsibilities to children.

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[2] Melton, in considering how the Norwegian Ombudsman could be strengthened, suggests that the Ombudsman be given this "watch-dog" and reporting function. I disagree and doubt whether a government *can* delegate this responsibility to an autonomous office. I do, however, believe that the Norwegian Ombudsman can be very important in monitoring implementation of the Convention.

2.2.1. MODIFYING THE OMBUDSMAN CONCEPT

Several international statements pertain directly to an Ombudsman for Children. The most notable, apart from the interest demonstrated by UNICEF, are the recommendations of the Stockholm Statement (Swedish Save the Children Conference, August 1989) to "encourage establishment of the position of a "Children's Ombudsman" in each country in order to promote and monitor child's rights issues as well as keep abreast of international trends" (§8, report p. 48) and the recommendation of the European Parliamentary Assembly Committee on Legal Affairs and Human Rights, adopted unanimously by the Council of Europe Parliamentary Assembly 41st ordinary session, February 1, 1990: "to envisage - if they have not done so - the appointment of a special ombudsman for children who can inform them of their rights, counsel them, intervene, and, possibly, take legal action on their behalf..." (Doc. 6142, 12.A.e.ii).

Both of these support the principle of an Ombudsman Institution, but not necessarily identical to the Norwegian model. As demonstrated in Chapter Seven, there are alternatives and means of modifying the model to make it more suitable in other cultures.

The Norwegian Ombudsman for Children and similar institutions combine several functions concerning children's needs and rights, which under other circumstances might be separated:

- Receiving complaints and requests from individuals (adults and children) who may be helped directly or indirectly by the Office.[1]

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[1] Melton argues that while case advocacy is useful and helpful in disclosing issues of general concern, individual case advocacy is not necessary for "functions that a thoughtful, prestigious leader with appropriate investigatory and social-science staff support may be especially able to perform" (Melton, 1990, p. 84-85). Looking at issues brought up by children, even leading to legislative amendments, I would still argue that if at all possible, accessibility to children should be encouraged. In this connection the right to protect sources of information and to obtain sensitive information, also through investigative rights, would be particularly important.

- Receiving and giving information, proposals, referrals to and from the local level services and organizations.
- Receiving and giving information to and from the administrative branches on the community level, county level and national level.
- Communicating information, proposals for changes of procedures, decisions, and rules, regulation,legislation to politicians on the local and national levels.

Or in other words (as described page 409) the existing mechanisms have in common obligations:

- To respond to complaints and/or violations.
- To influence legislation, policies and practices.
- To carry out or encourage research or establishment of a data base.
- To review the performance of government and independent organizations *from the point of view of children's rights/interests*.

The advantages of combining these areas have been described throughout this study. But in view of surveillance or monitoring conditions for children - or in observation, registration, monitoring or cooperation with the monitoring body of the government, some countries might wish to consider whether or not all these functions are to be combined. The idea of serving as a direct communication-channel between the children themselves and the top-level decision-makers may seem impossible, e.g. according to prevailing religious law. Leaving out this function deprives the children of that possibility to influence decisions, but does not mean that children have nowhere to go. A child with a problem will often turn to parents to relatives, friends or teachers (who may or may not take the problem elsewhere). They may turn to the local services, including organizations, churches or even lower-level courts. So what they may not have is a service to turn to when the instances they try either cannot or will not help. The same may apply to individual adults, but they often have other options, such as the courts, the political parties or politicians, other organizations and the mass media. In some countries these needs may be well served by other existing services, or - to the contrary - be the only function of an Ombudsman service a country might wish to provide.

Leaving out the child-to-government-function does not need to mean that an Ombudsman-like function is impossible or cannot be very useful. Even the combination of giving and receiving information and proposals to and from the local, county/state and national level is often an innovation, and can give a broader picture of conditions and the feed-back systems between various areas than can be done with information from e.g. state level only. Such information can be most useful as input into the national report.

A different approach can been imagined by looking at the areas of rights covered by the Convention. Although it is often difficult to classify each article into *one* of the broad areas, UNICEF has simplified understanding of the Convention by pointing out that it covers four broad areas of rights:

- Survival rights, which include such things as adequate nutrition, housing, and access to medical services.
- Development rights, which include education, access to information, play and free time activities, cultural activities and the right to freedom of thought, conscience and religion.
- Protection rights, which in addition to the survival and development rights also cover exploitation, cruelty and abuse, arbitrary separation from the family and abuse in the criminal justice system.
- Participation rights, which include the freedom to express opinions and have a say in matters concerning the child's life. As the child matures, he and she shall have increasing opportunity to participate in activities of society and to take part in decisions-making, in the family, in school, and in the widening circle of local community.

In considering systems for efficient monitoring and implementation, a body like the Ombudsman might not have equal responsibility related to all four sets of rights. Whether a country is an industrialized or developing country should not influence the decision of whether or not a body of this kind should be established, but will definitely have an impact on the kinds of problem the body will be most concerned with. When the problems of children are so overwhelmingly obvious as they must be when survival itself is at stake, survival problems may not be the first responsibility of an Ombudsman-like body, even though what is done about them by the authorities may need surveillance and proposals for improvements. Under such circumstances it may be less obvious that the implementation of other rights of children may need monitoring or that a non-government body might have a defined responsibility to keep an eye on other conditions. For example, so-called "developing countries" can still avoid or prevent some of the mistakes made by the industrialized countries, that have *created* problems for children. A "watch-dog" like an Ombudsman might be able to help establish measures to prevent such negative consequences of societal development. Also, it might seem that participation rights need extra surveillance, see discussion page 453-460.

2.2.2. PRINCIPLES FOR MONITORING MECHANISMS

The majority of existing models function in industrialized countries. But representatives of developing countries[4], meeting in Florence (Flekkøy 1991) agreed with the importance of the following principles and the need to work towards them. Some of the principles could admittedly be extremely difficult to apply and would then represent long-term goals.

- The monitoring structure should be a voice for children.

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[4] Algeria, Namibia, Colombia, Egypt, Mauritius, Kenya, Ecuador, Philippines, Nepal and Sri Lanka.

- As far as possible, it should be independent in relation to political administration, legislature and political organisms.
- It should be financially independent.
- It must be as accessible as possible to the population, preferably including children themselves.
- It should be close to the decision-making bodies concerned with conditions that have an impact on children.
- It must work for, and within, networks at state and local levels, as well as at the non-governmental level.
- It should be legally established or in some other way given authority to carry out its functions.

The existing models fulfill and work according to most of these principles (see discussion, Chapter Seven). The viewpoints expressed supplement the experiences of mechanisms in industrialized countries, pointing to some additional difficulties and situations which need to be considered in planning a monitoring system. The following is a brief summary of the viewpoints expressed. (For full report see Flekkøy 1991).

1. *It should be a voice for children*

This should be the fundamental guiding principle of any structure monitoring the fulfillment of children's rights. Serving as a "voice" or channel of communications between children and the health, welfare and education systems, the judiciary, the local planning boards and, in general, any area of government where decisions affecting children are being made, it would:

- transmit information from children;
- make the needs and rights of children publicly known;
- impart to children information they need to know, making sure that children are aware of the Convention and its relevance to their daily lives;
- ensure that the literal voices of children are heard - that is, that the concerns and opinions which children themselves have actually expressed are taken into consideration.

Hearing children's voices may be its most difficult task. For further discussion, see page 453-460.

2. *As far as possible, it should be independent in relation to political administration, legislature and political organisms*

"Independent" is used very specifically in this context to mean that the monitoring structure should not be manipulated by the government or by political parties, that government officials should not be able to intervene in its functioning and that it should be able to respond honestly to individuals seeking help.

A *public* Ombudsman or Commissioner will have an administrative connection to a governmental branch, a precise mandate limiting the scope of his or her activities and a budget within which to work. He or she could, nonetheless, be "independent" if the following principles were observed:

- In order to be able to observe and, if necessary, criticize government and legislature for lack of action for children, the Ombudsman or Commissioner should be protected from arbitrary dismissal by the government.
- The public monitoring structure should, preferably, have constitutional support.
- To ensure permanence and stability in the services for children, the structure should represent a state policy and not the policy of a specific party or government.

3. *It should be financially independent*

This principle was viewed as being closely connected to the preceding one. The "financial independence" of a government monitoring office was defined as meaning that its funding is guaranteed by the State and not dependent on the party in power. Non-governmental organizations must attain the same level of financial independence, and could do so by having a broad base of financial support.

4. *It must be accessible to the population, preferably including children themselves*

Access to a monitoring structure should be as direct and easy as possible. Children and families should be able to relate easily to the structure. This could be facilitated by identifying the structure with a person or, in some situations, with an institution or an organization which is widely regarded as an identifiable body related to children's issues, with a non-bureaucratic approach.

In some countries, the range and diversity of individuals, groups and languages is so wide - e.g. 20 different groups in Nepal and 71 tribes in Kenya - that making a system accessible to the population, and vice-versa, would be a very complex task. The existing models rely heavily on the use of telephones and postal systems. Particularly the use of mail depends on the ability to read and write. Knowledge about the structure is spread through printed media, as well as by radio and television. How monitoring functions can be carried out in countries where telephones and televisions are not common, the postal system is inefficient, or the population is dominantly illiterate (e.g., 70% in Nepal) narrows the field of action. The spoken word, word-of-mouth spreading of messages (the "jungle telegraph") and radio may be the only ways to spread information to these groups. Factors such as land area, type of terrain, population distribution, population density, migration, etc. may hinder communication with the very groups that need help most. The more isolated children are, the more difficult and expensive it is to get information to them, from them and about them.

5. *It should be close to the decision-making bodies concerned with conditions that have an impact on children*

One way of bridging the distance between politicians and voters is to provide the public with information about the performance of politicians, which in itself increases the pressure on them to keep their promises and strengthen their commitments. In formal federal states, it is particularly necessary to assess national, regional and local government actions and policies.

6. *It should work for and within networks at state and local levels, as well as at the non-governmental level*

To be effective, the monitoring structure has to have wide contacts within the community, with departments of state, with schools, professional groups, the media and individuals. In this connection, it was noted that the federal system of government can present obstacles to establishing uniform laws and policies affecting children.

7. *It should be legally established or in some other way be given authority to carry out its functions*

This principle should not be interpreted as meaning that monitoring should only be carried out by government structures. Non-governmental organizations are, by definition, "legally established", but their real authority to monitor children's rights has to be earned.

A public monitoring structure should, preferably, be established under statute and given specific authority to carry out surveillance functions in well-defined areas of the government.
Credibility was emphasized as one avenue to authority. Any monitoring body, whether inside or outside the government, will carry weight only if it establishes credibility and is "legitimized" by the communities and by the families it serves. To do so, it is essential that the structure clearly serve only the interests of children, i.e., it should never be suspected of having a hidden agenda. It should avoid "the impossible", selecting issues which can actually be influenced by the work done, with the resources available. The persons involved should be professional, non-bureaucratic and able to make things happen. They should, above all, base their statements and opinions on facts, as far as this is possible. Speaking with facts in hand is dependent on the availability of valid statistics and data analysis on conditions for children - information which is often missing.

Consonant with my own views, the representatives of industrialized and developing countries did *not* find that a *small*, homogenous country with a democratic political system and traditions for using legislation as a tool for improving conditions for weak groups (see page 383) were prerequisites for even an ombudsman-related mechanism. A large nation, particularly a federation of states, might well need a different kind of organization, size and/or mandate for a parallel structure. (See discussion page 407 and 415-417). A multiparty political system might more easily than a one-party system contemplate the establishment of this kind of mechanism, but should not be absolutely essential. As long as the dominant party is willing to listen and to alter its policies for children if the arguments are persuasive, without repercussions to the critics, such approaches should bring results. In any context, but particularly when criticism can be perceived as controversial, the case is much stronger if there is no doubt that the interests being served are really those of children and not the interests of other groups, camouflaged as "for the sake of children".

The size of a country, its political system, cultural traditions, organizational structures and the total situation of children will all influence the choice of methods for improving conditions for the younger population. In addition it can be important to identify the prevalent attitudes or mixtures of attitudes to children within a cultural setting, to help determine the type of advocacy most likely to succeed. These attitudes may also be prevailing amongst individuals and groups concerned with child advocacy, and may influence their choice of methods. The types of resistance encountered, e.g. amongst politicians, are at least in part determined by attitudes to children and parents and are easier to overcome or integrate in advocacy efforts when identified.

3. Points of particular concern to child-related professions

This section does not attempt a full analysis of the Convention, its importance to and consequences for child-related professions. In view of the previous discussions, and particularly with the "Western" bias in the use of developmental psychology of this text, it seems, however, appropriate to point to some issues.

With the bond created between the Convention and child-related expertise two points of the Convention text seem to be of special interest:

1. *"The evolving capacities of children"* (Articles 5 and 14) which is closely related to *"in accordance with the age and maturity of the child"* (Article 12). These concepts are closely connected with evolving competence or capability (see Chapter Two).[5]
2. *"the best interest of the child"* (Articles 3, 9 18, 20, 21 and 40). This concept is so broad and indeterminate that it is probably impossible to define exactly what the content should be in any given context. The principle is clear, however, of giving the perspective of the child priority in conflicts of interest between the child and an adult, between adults in conflicts concerning the child or between the child and any institution.

What is "in the best interest of the child" will vary from culture to culture and in different circumstances. At best a number of questions should be asked and answers sought found in attempts to clarify, in any given case, what is actually "in the best interest of the child".[6]

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[5] It should be emphasized that although not explicitly mentioned in Article 23 (on the rights of the disabled child), Articles 5 and 14 do not define *age* or maturational level as criteria. Recognition of these children's maturing capacities constitute a principal criterion for the planning of education, therapy and other types of support necessary to fulfill the child's right to "a full and decent life... in conditions which ensure dignity, promote self-reliance and facilitate the child's active participation in the community" (Article 23.1).

3.1. "The evolving capacities of the child" in an international context

In Chapter Two an attempt was made to demonstrate that evolving capacities include many aspects of child development, including intelligence, and that the whole context of the child (social, physical and material) will have an impact on development of capacities. One consequence of this is an increased importance of old knowledge,[7] namely that development measures from one culture may not be very useful in other cultures, especially if they have not been cross-culturally validated. "Western" instruments are often used because professionals in non-Western countries frequently have their training with Western models and because appropriate culture-specific measures are lacking. If used uncritically, children may be inappropriately labeled, for example as "retarded" or (as in Geber's study, footnote 7) as "precocious" when they are actually "normal" or "average" compared to their peers. (This may be another example of how focus can influence perception and understanding, see Chapter Two). There may be little harm in finding a child "slow" and introducing measures to help if unnecessary (except for the use of funds), but culture-specific screening instruments are also necessary to find larger groups of children with problems, to be able to plan the appropriate interventions.

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[6] In Norway, for example, some of these questions would be: Do we mean the best interest of the child now? in the near future? or in the long run, - and in that case, how far ahead should we look? Should "the best interest of the child" be from the child's own point of view? from the parents' viewpoint? or what the services feel or think or are convinced would be the best? Is "the best interest of the child" the same for children of different ages? from different cultures? in different contexts? Who is to make the final decision? the parents? the child? or the services? the experts from child psychology or child psychiatry? lawyers? the child welfare system? the courts? or what about the teachers in nursery schools, kindergartens and schools?

[7] For example, Geber (1962) reported "precocious... psycho-motor development" in children from Baganda when the Gesell tests from 1940 were used. Her conclusion was that "It is very important not only to modify test but to have tests specially devised for estimating the specific aptitudes of Africans...".

Also, it will be necessary to assess aspects of the environment known to affect child development from the viewpoint of environmental risk in different cultures. Parker et al. (1988) and the observations we have of "street children" have for example shown that there can be positive factors in a deprived environment (see page 67), whereas studies of children in industrialized countries (Cornia 1990 and Bradshaw 1990) reveal that these children may be more threatened than previously taken for granted (see page 387).

One responsibility of child-related social scientists will therefore be to help develop screening instruments suitable for different cultures. Since screening is only the first step in a process of beneficial intervention, methods of and conditions for such interventions must be developed concurrently. The necessity of cross-professional collaboration is evident (see for example the possible connection between nutrient absorption and sensory deprivation, page 435), particularly because there seems to be an increasing understanding of the social-behavioural (as compared to the medical) aspects of development and the interactions between them. (See e.g. Landers & Kagitcibasi 1990).

3.2. Rights and the growing child

One facet of the research outlined above is the planning and execution of research to clarify the importance of Convention articles at different stages of development and how implementation can be carried out so best to promote the entire development of the child. Implementation of rights must be tailored not only to the cultural context, but to the changing needs and capacities of the growing child. We need to know more about which rights are most important, also seen from the child's point of view, on different stages of development and how implementation can be tailored encourage the child's evolving capacities, e.g. for making decisions (see Chapter Two, particularly page 62-68).[8]

4. A Voice for Children - the voices of children

There has been little discussion about the rights to survival, protection and development, which seem to be perceived as innately reasonable, based on basic needs, belonging in level 1 and 2 (and possibly 3) of Maslow's hierarchy. Participation rights seem to be different, leading out of or feeding into levels 4 and 5. (3. Belongingness and love: 4. Esteem: for self-respect and the respect of others and 5. Self-actualization: the sense that one is doing what one is individually suited for and capable of, to be "true to one's own nature"). Participation rights include the freedom to express opinions, have a say in matters concerning the child's life, increasing opportunity to participate in activities of society and to take part in decisions-making, in the family, in school and in the widening circle of local community). It seems that these rights must be gained, or that they are more or less willingly given to children by adults, reluctantly (because it may mean relinquishing adult authority) or as rewards as the children prove that they have deserved them. The discussion often is based on adult evaluations of the child's ability to make decisions or to take the consequences of these decisions.[9] This means that views on competence can be very crucial in this connection.[10]

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[8] Issues which are important, but which I will not discuss further here are for example: How can psychologists and other child-related professions help change general attitudes towards children?
How can psychologists and other child-related professions help to ensure that the rights of children are considered and upheld, e.g. in their own professional relationships with children and with other professionals?

As described in Chapter Two, exercising participation rights starts at birth. Children must - as with eating, cleanliness or any other kind of behaviour - learn what is acceptable in their community, the how, when, what, towards whom they can exercise their rights, in this connection to give an opinion and make decisions. In relation to equals they learn this in peergroups, as described in Chapter Two. In adult-led groups, in the family or elsewhere, the kind of leadership provided is important, because the leader also serves as a role-model. But children need opportunities to solve conflicts amongst themselves on their own as well. Adults might provide alternatives for solutions, sharing experiences and pointing out consequences, and make decisions when the child is unable to handle the decision or the consequences of a decision. The right to participate, to give views and opinions, does *not* mean having to take responsibility for choices with consequences the young person cannot understand or cannot handle. Here there is a delicate balance between the rights to develop and participate and the right to protection. In the individual case it may be impossible to know whether the right balance has been found, also because it involves knowledge of the individual child. On the public level, it might be easier to base rules on averages, if these have been found in an objective way. But on either level it might be wise to keep in mind that *over*-protection does not lead to development, but too many failures do not help either. Successful decision-making can play an important part in the development of "sense of self", and "identity" (page 60-66).

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[9] At times the burden of proof is even tougher for children than for adults themselves. If, for example, the right to make decisions depends upon making the right ones and not making mistakes, many adults should not have this right either. Why not turn the whole question around and say that children of course have the same right as adults, until it can be proved that children are unable to handle them? Then the burden of proof would be on the adults.

[10] Frønes (1989) says that when working with children with problems, it is of little use to ask: "What is wrong with the family? What has gone wrong in the past with this child?". Asking, rather: "Which skills or competence does this child lack?" and "How can we provide learning possibilities for lacking skills? focuses, he says, a teacher on the future and on the learning tasks at hand. Frønes seems to think that similar symptoms all have the same cause, which is therefore without interest. While I do agree that this positive educational focus can be useful, I do not see that the one point of view would exclude the other. Knowing something about the roots and causes of a problem certainly helps to plan interventions which are effective precisely because the individual child's developmental history gives information upon which the intervention can be based.

Part of the adult responsibility in relation to these rights would be to ensure that the child has ample opportunity to develop the necessary skills and is given opportunity to *express* these rights according to ability. We know little about how these abilities are learned, under which conditions, and thus which decisions children could make as a consequence of new learning opportunities.

Children are rarely asked how they perceive their own situation, and how the situation could be changed. Methodical enquiry into what is important to children is almost non-existent. The participation of youth and children in monitoring their own conditions should be a goal in itself. How to establish structures and implement the right of participation, how to find out whether that right has, in fact, been implemented, and how to involve children in the process is a practical problem which would need different solutions for children on different age levels and in different cultures. In this area, there is little experience and an obvious need to share ideas.

4.1. Children's part in decision-making

Many of the child advocacy initiatives described so far lack accessibility to the children themselves. Attempts have been made to give children an opportunity to speak their minds, in "children's meetings", "children's congresses" or "polls for the young". For teenagers this may be a feasible way to go, but for younger children one may find that this is a type of forum with which they are not comfortable, except, perhaps, with very careful planning and preparation.[11]

One of the problems in organizing "Children's meetings" or a "children's congress" is the dilemma of wanting the children/young people to voice their opinions, giving them the opportunity to do so, - but not giving them any real power or explaining where the limits to their power are. One can also wonder if mock "courts", "children's parliaments" or "children's opinion polls" actually reflect the un-adulterated opinions of children. On whatever level children and young people have such opportunities (which they should have, since even "simulation" opportunities can be useful learning opportunities, amongst other things to learn what the consequences of voicing opinions or voting are), it must be made very clear - to them as well as to anybody else - when they can actually make a decision which will be followed through, and when their opinions are - like anybody else's - subject to decision by and through a democratic process. If they are led to believe that their opinions carry more weight than they actually do, children and young people, like adults, will either give up trying or become rebellious.

More formally organized Youth Councils also give young people an opportunity to voice their views and to learn the decision-making democratic process. The question of representation (who decides and by which process which young people can/shall represent

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[11] One Norwegian organization, with members from the age of seven years, held all its annual meetings, including its annual general meeting with several hundred representatives from all over the country, with no adults allowed. During the previous year the members had learned the technicalities of formal meetings, thus gaining confidence as well as "know-how". An eleven-year-old was elected to present their statements and opinions to the joint meeting of all Norwegian trade unions, to be held a few weeks later.

whom), is a serious one,[12] particularly if it turns out that the young representatives are the resourceful ones who would probably have "the upper hand" in relations to their peers anyway. How does one then get the opinions of those who are less strong-voiced?[13]
If we only concentrate on and encourage the "born leaders", we may develop an increasing gap between the leaders and the non-leaders.

Another consideration is whether children and adults should be separated in the decision-making process. Children and young people may feel more free to express their own ideas and their own convictions if they are not overwhelmed by adults. On the other hand, children and young people need to learn to cooperate with adults, just as adults need to learn how to cooperate with the younger generation. So if the adults are there, to give information and advice, care should at least be taken so that the adults do not, directly or indirectly, take over the entire proceedings.

Studies on the "democratic spaces" actually available to children in different cultures, at different ages and in different settings and how children are able to use them may be very useful as a basis for further development of children's possibilities to participate in decisionmaking.

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[12] This was discussed in relation to the Advisory Panel of the Norwegian Ombudsman for Children (page 118-119).

[13] One nice experience of the Ombudsman office was that obviously handicapped (mentally or physically) children would get in touch, and then inform of situations the others had not thought of, such as the relative difficulty of getting around in a wheel-chair or on crutches when all the walks were sanded or gravel, not cement or asphalt.

4.2. Children have superior knowledge

There are very many opportunities for children and young people to take their part in decision-making processes, in the family, their neighborhoods, in organizations and schools. Children very often have superior knowledge. They know not only where the areas *planned* for play are, but the areas being used (often not the ones the adults think). They know which equipment is available, and how much it is used. They know what is needed to enrich the areas in which they spend time and learn. They have inside information about causes in school- or organization conflicts. They react soundly (and often loudly!) to discrimination or unfair treatment, often seeing this when the adults are "blind" to what is going on. They know, as "consumers" what they like or dislike in school, in neighborhoods, in organizations. Like anyone else they have to put up with some things they dislike, but that does not mean that they, because they are small, cannot understand reasons (as demonstrated repeatedly in their conversations with the Norwegian Ombudsman) or that they cannot - in contrast to many adults - come up with ideas that could ameliorate the situation. When the children are asked for advice and opinions about their surroundings, they usually come up with good improvement ideas and well-based opinions. They may need advice about where to get information, how to present a proposal, which authority would be the right one, which channels they might use to get their views across. But the problem in implementing the suggestions often lies with the adults, first in listening, second in taking the children seriously, and finally, if the idea reaches that stage, in resources.

4.3. The Ombudsman as a channel for complaints and changes

Children in most countries and in many connections lack a structure for their own complaints. If adults are unwilling or unable to further the complaint on behalf of the children, children often lack a "next level" recipient, particularly one that also has connections with the decision-making bodies in society. The Norwegian

Ombudsman provides not only an example of how such a structure can work, but also that children use it, and that they - through this channel - can be instrumental for changes in their society from the local to the national, legislative level.

The Florence meeting (Flekkøy 1991) felt that all countries should work to create a systematic process by which children and youth could express their concerns and relate their own experiences. In societies where children do not have a "public" voice, advocacy efforts might be directed towards encouraging an increased participation of children in decision-making within the schools. Youth groups and organizations should be actively mobilized and motivated to participate. Devising ways for children and youth to exercise their right to participate actively in society could be especially complex in cultures where children are under total adult control. But from the point of view of implementing the Convention, the involvement of young people is very important both in the short and long term because 1) it is often easier to change their attitudes than those of adults and 2) they are potential parents. (They are also potential voters, leaders and legislators).

4.4. Why is participation so important?

Children need to acquire the skills and competencies that will prepare them for a wide variety of possible futures. Communications skills and social skills will be important regardless of many other things. Future adults will need persistence and courage as well as imagination and faith. One way to give them this is by believing in children, by trusting in the evolving - not lacking - competence of children. We know that children who are active in decisionmaking, who learn from their own experience as well as by seeing adults spending time and energy involved in "causes", because they believe they can contribute to making a change, are less prone to depression, hopelessness and suicides. (Raundalen, M. & Raundalen, T.S. 1984; Escalona 1982; Schwebel 1982). Starting with having some impact in their own families, learning that they can make a difference in the neighbourhood, in their organizations and schools, their faith in the possibilities for change, their courage to try, their persistence in the face of the odds grows with them. Learning first to care for themselves, then for parents and peers, finally for generalized and even far-away "others", may encourage development of personality characteristics important in a society which increasingly demands flexibility, creativity, tolerance, and ability to cooperate, often with people of different cultural backgrounds.

Summarizing and concluding remarks

This study has as its point of departure the practical experiences of the first eight years of the Norwegian Ombudsman for Children Office. In addition to describing the trends that led up to the establishment and the work of the Office, it attempts to show how child-related social science knowledge (particularly child developmental psychology) permeated the work.

Many of the questions and problems raised in the course of this study have been discussed in the sections in which they appear. The two main issues were:

1. Can child-related social science knowledge, developmental psychology in particular, be used effectively to improve conditions for children, in work carried out on a national level?
2. Can the experiences of the Norwegian Ombudsman for Children be useful in other countries, particularly as related to the United Nations Convention on the Rights of the Child?

The study indicates:

re point 1:
It seems clear that child-related social science knowledge may be effective as a tool and is indispensable in work to improve conditions for children, not only on the national level, but also - when established to suit the cultural context - internationally. The

universal applicability of the United Nations Convention on the Rights of the Child, which also makes use of child development knowledge an indispensable part of implementation, gives the professional field a new status and also new responsibilities. Developmental psychology alone is not sufficient. The sociology of childhood, knowledge of the legal situation of children and the expertise of pediatricians and nutritionists will be equally important. In addition, knowledge of the culture and experience of how the political, decision-making system of the country works are necessary to be able to use the knowledge in effective ways.

The analysis also indicates areas where lack of knowledge is evident. To be able to convince policy- and decision-making bodies, i.e. politicians, it would have been most useful to have more knowledge about cost-benefit analyses of child-related programs and the cost in the long run of *not* investing in such programs. The expertise of child-focussed economists would be particularly welcome, on the international as well as the national levels.
The Convention can, in this context, be an instrument to secure that economic organizations, e.g. the World Bank and the national programs for development aid, are aware of and incorporate the interests of children in their projects.

re point 2:
The experiences of the Norwegian Office can clearly be of use in countries where problems of childhood are similar to those of Norwegian children.
But discussions of other models, their experiences and the *principles* for monitoring mechanisms indicate that the analysis of the Norwegian experience can be useful elsewhere. In principle, promotion of rights does not really depend on economic situation or political system. Eide (1990) points out that in Norway civil rights and political rights were secured while the country was mainly rural, with little industrialization, and with material conditions - even as compared with many developing countries of today - which were quite poor. Some would even argue that the higher the

proportion of children and the worse their conditions in any part of the world, the more necessary promotion of rights and monitoring their conditions would be.

Finally, looking at the value of children in a global perspective, it is obvious that the world needs children, - but not only because children represent our future. Children are also the embodiment of global values. Therefore children unite, they do not divide peoples or countries. They embody as well certain global duties and they are the indicators of what the world needs. Recognition of the needs and situation of children should bridge the gap between East and West, North and South. And finally, children are the hope of the future also because they give purpose and meaning to life when ideologies crumble, when despair threatens to overwhelm us, when everything else seems to fail.

Summary

This study is based on the experiences of the first Ombudsman for Children in the world, to promote and protect the interests of children in society vis a vis public and private authorities and to follow up conditions under which children grow up. Describing the characteristics of the Office as compared to other Ombudsman Offices, the practical framework within which it was established, the study proceeds to describe the material provided by the Office in terms of case-load and procedures. A total number of 1.600-2.000 inquiries, complaints and demands for help resulted in 750-800 cases per year, 10-12% of which were first raised by children, mostly girls, and most between 8 and 14 years of age. The cases from children as well as from adults covered all areas of society, even individual conflicts between children and parents, which the Office was not allowed to handle.

The Office was not established for research purposes. But in 1988 the Office had overcome initial ambivalence about its existence. The Act had been adopted with a five-vote majority. In 1988 only 2% of a representative sample polled for opinions about the Ombudsman felt that it should be abolished. Approx. 80% of children asked, from 7 to 14 years of age, knew about the Office and how it could help. In 1982 the budget amounted to eleven US cents per child, leading others to point out that while the Parliament had supported an Ombudsman, the question might be raised whether it was made too weak to be actually effective. From 1987 the budget was strengthened by a higher percentage than the inflation rate, in 1988 the budget for 1989 was increased by 23%, and for 1990 another 50% was added, the staff increased to 7 from 1991, signalling the Parliament's changed attitude to the Office.

Also, international interest, inspired also by the forthcoming adoption of the UN Convention on the Rights of the Child and the foreseen need for implementation/monitoring mechanisms, made analysis of the Norwegian experience crucial.

For this study it was also important to analyse historical trends leading to the post World War II concern for rights for children and the developments and characteristics of Norwegian society which might explain why Norway became the first country in the world to establish such an office. This analysis, combined with the analysis of the causes for success, might help establish knowledge useful to other countries attempting to establish effective mechanisms for monitoring conditions for children.

The constraining factors consisted mainly in a small budget and staff.

The facilitating factors were:

1. The acknowledgement by Parliament of the need for and legitimacy of strengthening the position, interests and rights of children in society;
2. the autonomy of the Office (legislative and financial) in relation to all other bodies (political as well as administrative), organizations and individuals, combined with accessibility on all levels, creating a direct communications channel between e.g. children and parliamentarians;
3. the single purpose of working for the interests of children and nothing else;
4. the absolute rule against handling individual family conflicts, particularly combined with an extended right to protect sources and to visit all private and public institutions for children;
5. informal guidelines of being realistic, basing opinions and statements on multiprofessional knowledge, and avoiding party-political opinions.

The possibility of evaluating the work also made it possible to reflect upon the kinds of professional knowledge, particularly regarding child development, which was used by the Office during this period.

Comparing the Norwegian office with similar initiatives in other countries, two of which were also national and statutory, others serving a regional level or a more restricted area of society, the analysis indicates that the facilitating factors may well serve as guidelines for monitoring bodies elsewhere, even though adjustments to local traditions, culture, and conditions may be necessary. Thus the study provides a basis which countries all over the world, spurred by the new UN Convention on the Rights of the Child, can use and thus with more speed and efficiency establish effective monitoring both of conditions for children and of the governmental report to the Committee on the Rights of the Child.

Samenvatting

Dit werk is gebaseerd op de ervaringen van de eerste Kinderombudsman ter wereld die inspanningen leverde om de belangen van kinderen in de samenleving te bevorderen en te beschermen, zowel tegenover de publieke overheid als tegenover privé-autoriteiten alsook bij de opvolging van de omstandigheden waaronder kinderen opgroeien. De kenmerken van het Noors Kinderombudsinstituut worden beschreven in vergelijking tot de andere Ombudsmaninstituten. Naast het praktisch kader waarbinnen het werd opgericht, beschrijft de studie verder het materiaal dat ter beschikking werd gesteld door het instituut met betrekking tot het aantal behandelde gevallen en procedures. Een totaal aantal van 1.600 à 2.000 aanmeldingen, klachten en verzoeken om bijstand en advies, resulteerde in 750 à 800 zaken per jaar. 10 tot 12% ervan kwam van kinderen zelf, vooral meisjes tussen 8 en 14 jaar. Zowel zaken die door kinderen werden aangebracht evenals die welke door volwassenen werden aangebracht, omvatten alle sectoren van de samenleving, zelfs individuele conflicten tussen kinderen en ouders. Deze laatste mocht het instituut echter niet behandelen.

Het instituut was niet opgericht voor onderzoeksdoeleinden. Pas in 1988 was het de oorspronkelijke ambivalentie over zijn bestaan te boven gekomen. De oprichtingswet, die het Ombudsinstituut creëerde, werd aanvaard met een zeer nipte meerderheid van de helft + 5 stemmen. Maar in 1988 wees een opiniepeiling over het fenomeen "Ombudsman" bij een representatieve groep uit dat slechts 2% van mening was dat dit zou moeten afgeschaft worden. 80% van de bevraagde kinderen, van 7 tot 14 jaar oud, wisten af van het bestaan van het instituut en hoe het hulp kon bieden. In 1982 bedroeg het budget 11 US cents (± 4 Bfr.) per kind. Sommigen vroegen zich af of, hoewel het Parlement de oprichting van een ombudsman had gesteund, dit budget niet te klein was om werkelijk doeltreffend te kunnen functioneren. In 1987 werd het budget voor het eerst met meer dan het inflatiecijfer verhoogd. In 1988 werd het budget voor 1989 met 23% verhoogd en voor 1990 werd daar nog eens 50% aan toegevoegd. Vanaf 1991 breidde het personeel uit tot een staf van 7 personen. Dit toonde duidelijk aan dat het Parlement een andere houding had aangenomen t.o.v. het instituut.

Een diepgaande studie van het Noorse experiment werd zeer belangrijk omwille van de internationale belangstelling ervoor. Die interesse werd ondermeer geïnspireerd door de nakende aanvaarding van het VN-Verdrag inzake de Rechten van het Kind, de behoefte aan implementatie ervan en de nood aan een toezichtsmechanisme op dit Verdrag.

Voor deze studie was het ook belangrijk om historische trends te onderzoeken die hadden geleid tot de naoorlogse bekommernis voor rechten van kinderen alsook om de ontwikkeling en de kenmerken van de Noorse maatschappij na te gaan, die misschien zouden kunnen verklaren waarom Noorwegen het eerste land ter wereld werd om zo een instituut op te richten. Deze analyse, gecombineerd met het onderzoek naar de redenen van het succes ervan, zouden kunnen helpen om kennis op te bouwen, die van groot nut kan zijn voor andere landen die pogen doeltreffende toezichtsmechanismen met betrekking tot kinderen te construeren.

Beperkende factoren waren vooral: een klein budget en een tekort aan personeel.

Bevorderende factoren waren:

1. de erkenning door het Parlement van de rechtmatige behoefte tot het verstevigen van de positie, de belangen en rechten van kinderen in de maatschappij;
2. de autonomie van het instituut (wettelijk en financieel) in relatie tot alle andere organen (politieke en administratieve), organisaties en particulieren, in combinatie met de bevoegdheid toegang te hebben tot alle niveaus, wat een rechtstreeks communicatiekanaal mogelijk maakte tussen bv. kinderen en parlementairen;
3. het feit dat het enige doel was zich in te zetten voor de belangen van kinderen, en voor niets anders;
4. het absolute verbod op het behandelen van individuele familieconflicten, vooral in combinatie met een ruime bevoegdheid om bronnen te beschermen en de toegang tot alle private en publieke instellingen voor kinderen;
5. de informele richtlijn om realistisch te zijn, om opinies en

verklaringen te baseren op multiprofessionele kennis en om partijpolitieke meningen te vermijden.

De studie van het instituut maakte het ook mogelijk om te onderzoeken welke soorten professionele inzichten, in het bijzonder met betrekking tot de ontwikkeling van het kind, door het instituut werden gebruikt tijdens deze periode.

Bij de vergelijking van het Noors instituut met gelijkaardige initiatieven in andere landen - twee ervan zijn ook nationaal en statutair, anderen waren eerder regionaal en gericht op een beperkter deel van de maatschappij - wijst de analyse erop dat de bevorderende factoren kunnen dienen als richtlijnen voor toezichtsorganen, zelfs als aanpassingen aan plaatselijke tradities, cultuur en omstandigheden zouden nodig zijn. In die zin biedt de studie een basis die landen overal ter wereld kunnen gebruiken om - aangespoord door het VN-Verdrag inzake de Rechten van het Kind - sneller en efficiënter een orgaan op te richten voor het toezicht, zowel op de (levens)omstandigheden van kinderen als op het overheidsrapport aan het Comité voor de Rechten van het Kind.

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Appendix 1

Act and Instructions
The Ombudsman for Children Act

§1. Purpose

The purpose of this Act is to contribute to promoting the interests of children in society.

§2. Commissioner for Children

The King shall appoint a Commissioner for Children for a period of four years.

The King shall appoint a Panel which shall act as an advisory body to the Commissioner for Children.

§3. Duties of the Commissioner

The duties of the Commissioner are to promote the interests of children vis a vis public and private authorities and to follow up the development of conditions under which children grow up.

In particular the Commissioner shall:

a) on own initiative or as a hearing instance protect the interests of children in connection with planning and study-reports in all fields;
b) ensure that legislation relating to the protection of children's interests is observed;
c) propose measures which can strengthen children's safety under the law;
d) put forward proposals for measures which can solve or prevent conflicts between children and society;
e) ensure that sufficient information is given to the public and private sectors concerning children's rights and measures required for children.

The Commissioner may act on own initiative or at the request of other people. The Commissioner for Children himself decides whether an application offers sufficient grounds for action.

§4. Access to institutions and duty to provide information etc.

The Commissioner shall have free access to all public and private institutions for children.

Government authorities and public and private institutions for children shall, notwithstanding the pledge of secrecy, give the Commissioner the information needed to carry out the duties of the Commissioner pursuant to this Act. Information which is needed for the accomplishment of the Commissioner's tasks pursuant to §3, second paragraph, litra b, may also, notwithstanding the pledge of secrecy, be demanded from others. When information can be demanded pursuant to this item, it may also be required that records and documents be produced.

The rules laid down in subsection 1, §204 and §§205-209 of the Civil Disputes Act are correspondingly applicable to the Commissioner's right to demand information. Disputes as to the application of these rules may be brought before the District and City Courts, which decide the question by a court ruling.

§5. Statements from the Commissioner

The Commssioner has the right to make statements concerning conditions included in his working sphere. The Commssioner himself decides to whom these statements shall be directed.

§6. Instructions for the Commssioner and the Panel

The King lays down general instructions for the organization and procedures of the Commissioner and the Panel. Beyond this the Commissioner and the Panel carry out their functions independently.

§7. Entry into force, etc.

This Act is applicable to Svalbard.

The Act shall enter into force from the date prescribed by the King.

Instructions for the Commissioner for Children and the Advisory Panel:

Laid down by Royal Decree of 11 September 1981 pursuant to §6 of Act no 5 of 6 March 1981 relating to the Commissioner for Children.

§1. Duties

In accordance with these instructions the Commissioner for Children shall carry out the duties of the Office according to the Act relating to the Commissioner for Children. The Commissioner in pursuing his duties shall work to ensure that the needs, rights and interests of children are given the necessary consideration in all areas of society. The Commissioner does not have the authority to decide cases or set aside decisions in the administration. The term "children" shall here be understood to mean persons up to the age of majority.

The Commissioner should ensure that the public is informed about his work.

§2. How cases are taken up

The Commissioner takes up cases on his own initiative or at the request of other people.

Anyone may apply to the Commissioner. The Commissioner shall ensure that the verbal applications are put into writing.

A person applying to the Commissioner should, insofar as possible, explain the grounds for the application and submit whatever information and documents are available in the case.

If an application concerns a specific child and the application does not come from the child himself, the Commissioner shall not deal with the case without the permission of the relevant child. When the child's age so indicates, the permission of the guardian shall also be obtained. If general considerations so indicate, the Commissioner may deal with the case even though permission as mentioned above has not been obtained.

§3. Rejection

The Commissioner shall reject applications concerning concrete, individual conflicts between a child and its guardians, between the guardians mutually concerning the exercise of parental responsibility and similar matters. The Commissioner shall in such cases give the reason for the rejection and offer information about any exiting instances established for the purpose of handling conflicts of this nature.

A rejection by the Commissioner cannot be appealed.

§4. Referrals

Applications relating to conditions which in the main concern questions relating to the application of the law or the handling of the case are to be referred by the Commissioner to the Storting's Ombudsman for Public Administration when this is relevant.

If an application concerns a situation which may be brought before an administrative agency, the person applying to the Commissioner for Children may be advised to take the matter up with the relevant body. The Commissioner himself may also send the matter to this body.

If an application concerns a situation which can be referred to the Public Prosecution Authority or a special supervisory body, after a more detailed investigation of the circumstances of the case the Commissioner may send the case to the relevant authority if the conditions pursuant to subsection 6 of §13 b of the Public Administration Act obtain.

§5. Shelving of cases

If the Commissioner finds that the application has been made for a situation which does not offer grounds for criticism or for any follow-up procedure, the case may be shelved. The Commissioner may also shelve a case if the situation which the application concerns has been remedied or has ceased to exist.

At any stage in the proceedings, the Commissioner may also shelve a case for reasons connected with work. However, the Commissioner should try to deal with a representative selection of cases.

Anyone who has applied to the Commissioner shall be informed of the shelving of the case and the reasons for this. The shelving of the case by the Commissioner cannot be appealed.

§6. Rules for dealing with cases

Chapters I-III of the Public Administration Act and the Freedom of Information Act are applicable to the activity of the Commissioner.

Before making his statement the Commissioner shall ensure that the case is clarified as far as possible. The Commissioner determines what steps should be taken to clarify the circumstances in the case.

Also when this does not follow from other rules the Commissioner shall preserve secrecy about the source of information he has used when the source has expressly requested this.

§7. The Commissioner's statement on the case

The Commissioner shall personally adopt a standpoint on all cases which have been taken up for discussion and have not been shelved pursuant to §5 of the Instructions. As a basic rule the opinion of the Commissioner shall be formulated as a written statement, giving the grounds for this.

The Commissioner himself decides to whom the statement shall be directed. The statement can also be directed to the press and the broadcasting corporation or others to the extent which the Commissioner finds expedient.

The Commissioner shall not express an opinion on the position in regard to the law when the Storting's Ombudsman for Public Administration has made a statement or when the situation has either been decided by the courts or has been brought before the courts for a decision. Even so, the Commissioner may criticize the factual and legal situation which has been revealed by the Ombudsman for Public Administration's statement or by the decision of the courts.

§8. Annual report

Each year by 1 April the Commissioner shall submit a report to the Ministry about his activities in the preceding calendar year. The report shall be available to the public.

§9. Personnel and financial administration

The Commissioner is appointed by the Council of State for a period of four years. No one can be Commissioner for more than a total of eight years.

The Commissioner has a secretariat available to him to assist with his work. The staff of the secretariat are employed according to rules laid down by the Ministry.

The Commissioner's Head of Devision is the permanent deputy for the Commissioner. The Commissioner and his Executive Officers should have varied professional backgrounds.

The rules for the administration of the finances in the Ministries and the rules for the organization and work procedures of the Ministries shall be applicable onsofar as possible.

§10. The Advisory Panel for the Commissioner for Children

In connection with the office of the Commissioner a Panel has been established. The Panel is appointed by the Council of

State for a period of four years. It consists of six members with personal proxies as well as the Commissioner himself[*] as the head of the Panel. The Panel elects its own chairman.

The Ministry is empowered to make additional appointments if a member or a proxy resigns during the period.

The Panel shall function as an advisory, consultative body for the Commissioner for Children and shall assist the Commissioner in his work by discussing questions concerning the activity of the Commissioner. Both the Commissioner and the rest of the Panel members may take up questions they believe should be discussed. The Commissioner may submit questions on the solution of individual cases also to individual members of the Panel.

The Panel shall not have any externally oriented function, nor any decision-making powers in relation to the Commissioner.

The Panel should meet at regular intervals at least four times a year. If at least two members of the Panel so demand, the Panel shall be summoned to an extraordinary meeting. The summons to the Panel meetings are given by the Commissioner with at least two weeks notice. The agenda and documents in the case shall be sent out at least one week before the meeting.

The Ministry is entitled to take part in the meetings of the Panel. The Commissioner may permit other people to participate in the meetings.

Minutes shall be kept of the meetings of the Panel.

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[*] amended 1990. The Panel elects its own chairman.

Appendix 2

Poll Regarding the Ombudsman for Children

November 1989
E. Tambsfoss, Markeds- og Mediainstituttet, Oslo.

Translation and summary of results by M. Grude Flekkøy.

Commissioned by UNICEF/Florence, the "Markeds- og media-instituttet" carried out an interview investigation concerning the Ombudsman for Children in November 1989, as part of the comprehensive interviews done each month. This was 3 months after the change of Ombudsman, with the wide publicity this received. The sample consisted of 1094 persons over 15 years of age, a random sample drawn from a wider sample to represent the different types of Norwegian communities, age-groups, and sex.
The total sample splits into the following sub-groups:

Sex: 537 males ; 557 females

Ages:	15-24 years	25-39 years	40-59 years	over 60 years
	214	302	291	287

Regions:	Oslo	Eastern	Western	Middle area	North
	126	474	248	148	99

Political parties[1]*:*

AKP/ml	SV	A	V	Sp	Kr.F	H	F.rp	?
3	145	296	25	40	66	227	92	112

Size of household:	1 child	2 children	3 children	0 children
	241	226	108	519

The questions were presented orally, to one subject at a time. No reply-options were given, - the answers noted and categorized by the interviewer.

The questions were, in this order:

1. *Do you think that there is enough concern and consideration for children's interests and conditions in our society?*
   15% felt that the interests of children are well taken care of. The percentage in this category rose from 7% in age group 15-24 years to 25% for those over 60. 44% felt that this was the case in some areas, not in other (the areas are not specified), while 37% felt that the concern for children's interests and conditions were insufficiently considered. 5% gave no answer. Thus, 81% indicate some degree of dissatisfaction for the consideration and concern shown for children and this needs.

2. *Do you know the name of a national body/institution which has working for the interests of children as its responsibility?*
   It was possible to give more than one answer, so the total

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[1] Political parties:
AKP/ml: small, extreme left (no seats in the Storting).
SV: Socialist Left Party.
A=DNA: Labour Party.
Frp: Party of Progress (Most conservative).
H: Conservative Party.
KrF: Christian Democratic Party.
V: Liberal Party.
Sp: Centre Party.

percentage was 142%. 74% mentioned the Ombudsman for Children, 23% the national child welfare services, 13% the local child welfare service and 32% gave other answers.

2b. The interviewer noted the first reply to question 2. 46% mentioned the Ombudsman first, 42% said "don't know" first, the rest giving other answers.

3. *The Ombudsman for Children was established by the Storting in 1981. Do you know the name of any person who has had or has the position?*
83% mentioned the new ombudsman, 38% the other, the rest did not know. Here too it was possible to come up with more than one answer, the total percentage was 138%.

4. *Can you remember any special cases the Ombudsman has worked with or can't you remember any right now?*
With prehaps the exception of what was loosely termed "child abuse" no case was clearly better remembered than any other.

5. *Do you know of any type of case which the Ombudsman is not allowed to handle?*
75% were not aware of any type of case the Ombudsman Office cannot handle.

6. *How many people do you think are employed in the Ombudsman Office? If you don't know, you can guess.*
40% thought the staff consists of 5 people or less. 35% thought the staff consists of 10-50 people, 3% thought it must be more than 50 people (15% thought there are 6-9 staff members).

7. *Have you yourself or has anyone you know been in touch with the Ombudsman for Children?*
92% had neither been in contact with the Office nor knew anyone who had. The highest percentage of those who knew somebody who had been in touch was the age-group 15-24

(11%).

8. *Do you feel that the Ombudsman for Children is useful, should the Office be closed or do you not have an opinion on this question?*
   83% feel the Office is useful, 15% "don't know", 2% think it should be closed. The only difference between sub-groups is that while 76-100% of the voters for other parties feel the Office is useful, "only" 65% of the Progressive Party voters feel this way, 25% of them "don't know". 76-88% of the voters for the parties that did not want to establish the office now feel it is useful, 3-5% of these voters think it should be discontinued.

None of the questions disclosed large differences between sub-groups, particularly when taking the relative sizes of the subgroups into consideration.The results for the total group are therefore to a large degree representative of the subgroups. Where there are differences which may be of interest, these are noted.

Appendix 3

Hearing Statements 1982-1989

1982

- Ethical guidelines for research with children (Norwegian Council of Research) 1 page.
- Proposed amendments to the Nursery school and Kindergarten Act (Ministry of Consumer Affairs and Government Administration) 7 pages.
- Proposed rules for admittance to Secondary Schools (Ministry of Church and Education) 3 pages.
- Proposal for Research on Traffic Safety for Children, report no. 28 from the Nordic Traffic Safety Council (State Directorate of Roads) 3 pages.
- NOU[1] 1981:35: The Role of the Police in Society, part 1 (Ministry of Justice) 2 pages.
- NOU 1982:13: Simplification of the Building Act (Ministry of Local Government and Labour) 9 pages.
- Norwegian Standard for mechanical and physical characteristics of Toys (Norwegian Standardising Corp.) 1/2 page.
- NOU 1982:14: Setting the amount of and claiming child support payments (Ministry of Justice) 5 pages.
- School buildings, what can be done to accomodate pupils with special needs? (Norwegian Council of Compulsory Schools) 3 pages.
- Proposal for changing the rules for financial aid for school transportation (confidential) (Ministry of Church and Education) 8 pages.
- NOU 1982:10: The Role of Specialists in the Health Services, institutions etc. (Ministry of Health and Social Affairs) 6 pages.

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[1] NOU: Norwegian public report (my translation).

- Proposal from the International Chamber of Commerce on guidelines for advertising for children (Ombudsman for Consumer Affairs) 1/2 page.
- Proposal for Research projects in Traffic Safety Research (State Directorate for Roads) 2 pages.
- Proposal for amendments of the Labour Conditions Act regarding Working hours (Ministry of Consumer Affairs and Government Administration) 1/2 page.
- NOU 1982:15: A new income-system for the municipalities (Ministry of Local Government and Labour) 32 pages.

1983

- NOU 1982:26: Child Abuse and Neglect (Ministry of Health and Social Affairs) 16 pages.
- NOU 1982:14: Setting the amount and collection of Child support payments, letter no. 2 (Ministry of Justice) 6 pages.
- Plan of action for activities against abuse of women (Ministry of Health and Social Affairs) 5 pages.
- Draft proposal for rules for deduction of expenses connected with visitation rights (Ministry of Finance) 7 pages.
- NOU 1983:3: Mass media and media policies (Ministry of Culture and Scientific Affairs) 23 pages.
- NOU 1982:27: Distribution of Functions and Administrative arrangements (Ministry of Local Government and Labour) 5 pages.
- The Labour Conditions Act and young employees (Ministry of Local Government and Labour) 2 pages.
- NOU 1983:15: The Planning Act (Ministry of the Environment) 14 pages.
- Draft amendments of the Building regulations caused by amendemnts of the Building Act (Ministry of Local Government and Labour) 3 pages.
- Proposal for prohibition of particularly inflameable textiles (State Pollution Control Authority) 2 pages.

- Proposal for law, regulations and guidelines for county responsibility in child welfare and child welfare institutions (Ministry of Health and Social Affairs) 5 pages.
- Revision of Act concerning financial support to private schools. (Ministry of Church and Education) 6 pages.
- Draft for amendment of drivers' lisence rules regarding lowering age limit for driving motorized bicycles, motorcycles and go-carts within enclosed areas (State Directorate for Roads) 3 pages.
- NOU 1982:38: Political Committees and Boards in the municipalities (Ministry of Local Government and Labour) 12 pages.
- NOU 1983:9: The Film and Video Act (Ministry of Justice) 6 pages.
- Proposed amendments to rules for setting grades, final exams and final school reports for students in the compulsory school (Ministry of Church and Education) 2 pages.
- Draft regulations for motorized transportation toy-equipment for children (State Pollution Control Authority) 5 pages.
- Draft Adoption Act (Ministry of Consumer Affairs and Government Adminsitration) 13 pages.
- Proposal for new traffic rules (State Directorate for Roads) 7 pages.
- Proposal for National budget (fiscal year 1984) regarding compulsory schools (Ministry of Church and Education) 4 pages.
- Proposal from the Planning Committee on extended rules concerning building plans (Ministry of the Environment) 4 pages.
- Supplement to NOU 1983:15: The Planning Act, proposals for consequence analyses (Ministry of the Environment) 4 pages.

1984

- Proposal for regulations for giving warning of work to be done on public roads (State Directorate for Roads) 4 pages.
- Revision of Act on support to private schools, procedural rules (Ministry of Church and Education) 2 pages.

- Draft regulations for practice of the Nursery school and Kindergarten Act, paragraph on the purpose of these institutions religious content (Ministry of Consumer Affairs and Government Administration) 5 pages.
- Additional commentary to draft for new traffic rules (State Directorate for Roads) 2 pages.
- Regulations for the use of safety belts in the back seats of cars (State Directorate for Roads) 3 pages.
- Proposal for new regulations for the standard of public roads (State Directorate for Roads) 3 pages.
- Draft circular letter concerning children with handicaps in nursery schools and kindergartens (Ministry of Consumer Affairs and Government Administration) 6 pages.
- On the Compulsory School (from the Ombudsman to the Standing Committee of Education in the Storting) 8 pages and enclosures.
- NOU 1983:47: The Immigrant and Foreigners Act (Ministry of Justice) 7 pages.
- Regulations for safety measures in the Building regulations, concerning staircases, balconies etc. (Ministry of Local Government and Labour) 2 pages.
- Representation from the social sector in the Building Board (Ministry of Health and Social Affairs) 1/2 page.
- Proposed amendment of the Building Act §12.4 (County administrator, Vestfold) 2 pages.
- Proposal for amendmends of regulations concerning space, localities, play areas and staff of nursery schools and kindergartens (Ministry of Comsumer Affairs and Government Administration) 27 pages.
- NOU 1984:5: Advertising in radio and television (Ministry of Cultural and Scientific Affairs) 6 pages.
- Guidelines for safe playthings (State Product Contral Board) 3 pages.
- Guidelines for playthings which may be harmful for hearing (State Pollution Control Authority) 1/2 page.
- Rules for the use of Snow-scooters (State Directorate for Roads)

1/2 page.

- New Income-system for the municipalities (To the political parties in the Storting) 34 pages.
- Simplification of the Building Act (Ministry of Local Government and Labour) 1/2 page.
- NOU 1983:57: The Penal Code (Ministry of Justice) 3 pages.
- The European Council Convention on acceptance of and fulfillment of decisions on parental custody rights and re-establishment of parental authority and the Hague Convention on the civil aspects of international child abduction (Ministry of Justice) 3 pages.
- Videos containing banned material (Standing Committee for Justice) 3 pages.
- NOU 1984:17: Perinatal care in Norway (Ministry of Health and Social Affairs) 3 pages.
- NOU 1984:6: Private car policies (Ministry of Transport and Communications) 5 pages.

1985

- Draft guidelines for educational content in the compulsory schools (State Council for the compulsory School) 20 pages.
- Draft proposal for Act for an Ombudsman for the Handicapped (Ministry of Health and Social Affairs) 4 pages.
- NOU 1984:20: Future organization of "Free time institutions for schoolchildren" (Ministry of Consumer Affairs and Government Administration) 12 pages.
- NOU 1984:9: Simplification of the Building Act, part II (Ministry of Local Government and Labour) 3 pages.
- Concerning consequence analyses in connection with the planning of extensive road projects (State Directorate for Roads) 2 pages.
- Draft General Plan for Traffic Safety Research 1986-1989 (State Directorate for Roads) 3 pages.
- Council for the Penal Code, Report on Pornography (Ministry of Justice) 8 pages.
- Report on Children who need special help and support

(Municipality of Oslo, Nursery school and kindergarten administration) 3 pages.

- Proposed amendment of the Marketing Act, §§4 and 5 (Ministry of Consumer Affairs and Government Administration) 5 pages.
- Draft guidelines for educational content in the compulsory school, part 2 subject curricula (State Council for the Compulsory School) 7 pages.
- Proposal to the Storting on Family Policies (The Standing Committee on Social Affairs) 14 pages.
- Legal actions which should be taken in connection with artificial insemination (Ministry of Health and Social Affairs) 6 pages.
- Proposal from Working Group on the collaboration between preschools and schools (Ministry of Consumer Affairs and Government Administration and the Ministry of Church and Education) 7 pages.
- Amendments to the regulations of the Nursery school and Kindergarten Act concerning space and staff (Municipality of Oslo) 2 pages.
- Safety measures for baby-sleds, guidelines (State Pollution Control Authority) 2 pages.
- Measures to prevent motorcycle accidents (State Directorate of Roads) 3 pages.
- Road systems and Road standards (State Directorate for Roads) 6 pages.
- NOU 1984:9: Simplifications of the Building Act, part III (Ministry of Local Government and Labour) 3 pages.
- Proposal for compulsory training for drivers of motorized bicycles (State Directorate of Roads) 2 pages.
- NOU 1985:11: TV 2 (Second national channel) (Ministry of Cultural and Scientific Affairs) 11 pages.
- Report on "Better Childhood" (Municipality of Oslo) 5 pages.

1986

- Draft guidelines for establishing and running "Park-aunt"-activities (Ministry of Consumer Affairs and Government Administration) 7 pages.

- Actions for protection against the damages of tobacco (Ministry of Health and Social Affairs) 4 pages.
- The age-limit for hunting and trapping (Ministry of the Environment) 2 pages.
- NOU 1985:18: The Social Services Act (Ministry of Health and Social Affairs) 37 pages.
- Proposal to the Storting on amendments of the Child Welfare Act (Ministry of Health and Social Affairs) 2 pages.
- NOU 1985:37: Hospital Autopsies (Ministry of Health and Social Affairs) 6 pages.
- Proposal for removal of demand for a driver's lisence for driving go-carts within an enclosed area (State Directorate of Roads) 2 pages.
- Legal actions which should be taken in connection with artificial fertilization (Ministry of Health and Social Affairs) 2 pages.
- NOU 1985:34: Conditions for Life for the Mentally Retarded (Ministry of Health and Social Affairs) 13 pages.
- NOU 1986:2: Proposal for a new Marriage Act (Ministry of Justice) 17 pages.
- Report of the Family Education Committee (Ministry of Church and Education) 4 pages, 11 attached documents.

1987

- NOU 1986:26: Lifespan Learning (Ministry of Church and Education) 2 pages.
- Proposal for amendments in regulations concerning child welfare institutions (Ministry of Health and Social Affairs) 1/2 page.
- Proposal for banning production, import, and sale of oil-lamps with loose wicks and poisonous lamp-oil (State Pollution Control Authority) 2 pages.
- Parents and Children Act. Question of changing rules on visitation rights and custody (Ministry of Justice) 22 pages.
- The Compensation Act, - standardization of restitution for physical damages to children (Ministry of Justice) 10 pages.

- Prosecution in cases of abuse of women (Ministry of Justice) 8 pages.
- Safe packaging (State Pollution Control Authority) 3 pages.
- Proposal to the Storting on amendments of the Railway Act (Ministry of Transport and Communications) 7 pages.
- Draft proposal to the Storting on size of child support payments (Ministry of Justice) 5 pages.
- NOU 1987:18: Simplification rules of court (Ministry of Consumer Affairs and Government Administration) 2 pages.
- Safety and security measures for passengers in motorcars (State Directorate of Roads) 6 pages.
- Regulations for Children in hospital (Ministry of Health and Social Affairs) 4 pages.
- Draft regulations for moviefilms and videos (Ministry of Cultural and Scientific Affairs) 16 pages.
- Parents and Children Act. Visitation rights for children whose parents have not lived together after the birth of the child (Ministry of Justice) 5 pages.
- Working Group Report on Norwegian gipsies (Ministry of Health and Social Affairs) 6 pages.
- NOU 1987:21: Coordination of laws concerning the use of areas (Ministry of the Environment) 2 pages.
- Plan for Children 0-12 years old (Municipality of Stavanger) 3 pages.
- Proposed amendment of rules for the use of safety and security measures while riding a car/motorcycle, particularly helmets (State Directorate for Roads) 4 pages.
- Report from the Public Committee on "The Role of Men" (Ministry of Consumer Affairs and Government Administration) 6 pages.
- NOU 1987:23: Guidelines for setting priorities in the health services and;
- NOU 1987:25: Hospital services in Norway (Ministry of Health and Social Affairs) 9 pages.

1988

- Regulations for local radio transmissions (Ministry of Cultural and Scientific Affairs) 1 page with attachment of 3 previous statements on mass media, advertising in radio and television and TV2 (see above).
- Proposed amendments of the Building and Planning Act (Ministry of the Environment) 5 pages.
- Bill on acceptance and accomplishment of foreign rulings on custody and return of children to their parents (Ministry of Justice) 1 page.
- Proposed regulations on bans on violence products (State Pollution Control Authority) 3 pages.
- NOU 1987:27: The Role of the police in society, part II (Ministry of Justice) 2 pages.
- Proposed amendments of the Road Traffic Act, and its regulations on the use of helmets by horseback-riders (State Directorate of Roads) 3 pages.
- NOU 1987:9A: Possible reforms in working hours of adult employees (Ministry of Local Government and Labour) 13 pages.
- Draft proposal to the Storting on temporary law on trying advertising in the Norwegian Radio and Television Corporation (Confidential) (Ministry of Cultural and Scientific Affairs) 2 pages and previous statements.
- NOU 1988:7: Personal payments for services within the health and social welfare services (Ministry of Health and Social Affairs) 5 pages.
- NOU 1987:36: Care functions in case of armed conflict (Ministry of Health and Social Affairs) 4 pages.
- Regulations for safe packaging of certain products (State Pollution Control Authority) 2 pages.
- Amendments of Building regulations of 1987 (State Technical Building Administration) 1/2 page.
- NOU 1987:34: The Culture and Education of the "Sames" (Ethnic Nordic minority group) (Ministry of Cultural and Scientific Affairs) 11 pages.

- Guidelines for the use of professional consultants in cases concerning custody, daily care, and visitation rights (Ministry of Justice) 4 pages.
- New regulations concerning who shall be considered as living in Norway according to the Child Support Act of 24. October 1946 (Ministry of Health and Social Affairs) 2 pages.
- NOU 1988:8: Concerning Bill on Psychiatric Health Care without the express permission of the patient (Ministry of Health and Social Affairs) 3 pages.
- NOU 1988:12: Sharing a household (Ministry of Consumer Affairs and Government Administration) 2 pages.

1989

- Proposed amendment of ban on skateboards (State Pollution Control Authority) 4 pages.
- Guidelines for beds for small children (State Pollution Control Authority) 1/2 page.
- Proposed amendments of the Nursery school and Kindergarten Act concerning rules for public licence and simplification of regulations (Ministry of Consumer Affairs and Government Administration) 8 pages.
- NOU 1988:29: Investigation and prosecution in cases of incest (Ministry of Justice) 8 pages.
- Regulations on simplified procedure in road traffic cases (State Directorate on Roads) 1/2 page.
- Proposed regulations for the compulsory school (Ministry of Church and Education) 6 pages.
- NOU 1988:33: The role of Psychologists in the municipal health and social service systems (Ministry of Health and Social Affairs) 5 pages.
- The fight against violence crimes. Ban on pornography (Ministry of Justice) 4 pages.
- Guidelines for highchairs and double-decker beds (State Pollution Control Authority) 1/2 page.

- General actionplan for equal status for men and women, proposal for certain changes in the Working Conditions Act (Ministry of Local Government and Labour) 2 pages.
- NOU 1988:40: Data policies in Public Administration in the 1990s (Ministry of Consumer Affairs and Government Administration) 2 pages.
- Ban on transportation of passengers in freight space of trucks and vans (State Directorate for Roads) 1/2 page.
- Guidelines for security measures concerning doors and staircases (State Pollution Control Authority) 1/2 page.
- Pamphlet on children in hospital (Ministry of Health and Social Affairs).

Appendix 4

Children's Rights and Responsibilities

Children have rights which increase as they grow older. With rights come duties and responsibilities. The right to take a paid job means e.g. that the person has an obligation to do the job as well as he/she can and stick to agreements made concerning that job. Not all rights or duties can be found in law. Duties at home, e.g. washing dishes or clearing up, are duties that children and young people agree with the adults about. The following list of rights is not complete. Children and young people must collaborate with adults in school and at home, about the rights listed here as well as the ones not on this list.

7 years:
- right and obligation to go to school;
- right to see movies for children[1].

12 years:
- legal right to express opinion on matters that concern him/her personally; the importance of the child's opinion gains with increasing age;
- the child must agree if he/she is to be adopted;
- right to see movies for adolescents[2].

13 years:
- right to take a job that does not effect health or school, e.g. in vacations or as newspaperboy/girl;
- right to be exempted from payment of taxes (within certain limits).

14 years:
- right to be heard by parents/guardians in financial questions concerning the young person;

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[1] The lower age-limit was set to 5 years in 1988, with new age-limits at 10 and 15 years. A child also was given the right to - with his parents - see a movie with an age-limit in the bracket above the child's actual age.

[2] See footnote above.

- right to take job as part of education or vocational training;
- right to be warned and given opportunity to state opinion in cases concerning him/herself being handled by public services (school, child welfare committee);
- can be arrested, tried and imprisoned[3].

15 years:
- right to decide choice of education;
- right to decide membership in organizations, including church;
- right to appeal or go to court to change decisions made by the child welfare board against the will of the parents;
- right to use money he/she has earned as he/she wishes (if the income is high, the child may reasonably be expected to share expenses for his/her upkeep);
- right to work for pay as described in the Labour Conditions Act, as long as health and education do not suffer;
- must have own passport to go abroad; parents must give permission for the young person to obtain passport.

16 years:
- right to go to adult movies[4];
- right to buy tobacco;
- right to demand confidentiality (including parents) from doctors;
- right to buy and get license for motorized bicycle;
- age of sexual consent; when both parties are over 16, sexual activity is legal as long as it is

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[3] The age-limit was raised to 15 years effective from Jan. 1, 1990.

[4] See footnote above.

voluntary;
- public child allowance stops.

Up to age 18:
- children can be held financially responsible for damage done purposely or through negligence; parents are required to cover damages up to 1000 N.cr. if the child is unable to pay;
- right to public child pension if one parent dies;
- forbidden to work night-shifts;
- can become ward of the child welfare system;
- must have parental consent to get married.

18 years:
- age of majority; can make all personal and financial decisions;
- right to vote;
- right to get driver's license for automobiles and heavy motorcycles;
- right to buy wine and beer;
- right to apply for extended child support when completing secondary education.

Appendix 5

Differing criteria of adulthood: age determination for various rights of children

Country	Compulsory school age	Minimum age for employment	Minimum age for imprisonment	Minimum age to marry		Minimum age for political rights		Legal determination of full age
				men	women	To vote	To be elected	
Austria	6-15	15	14	19	16	19	21	19
Bangladesh	not compulsory							
Bulgaria	7-14	16	14	18	18	18	18	18
Canada	6-15	15	14/16	14	12	21	21	21
Chile	6-15	15	16	21	21	18	18	21
Colombia	7-11	14	16	18	18	18	18	18
Costa Rica	6-14	12/15	16			18	21	18
Denmark	7-16	15	15	18	18	18	18	18
Finland	7-16	15	15	18	17	18	18	18
France	6-16	16	13					18
Germany, F.R.	6-15	15	14					18
India	6-11	12/15	16	21	18	21	21	21
Italy	6-14	14/15	14	18/16	18/16	18	18/25	18
Jamaica	6-17	12/15	14			18	18	18
Japan	6-15	15	15					
Morocco	not compulsory	12	12/16	18	15	18	25	18/21
Netherlands	6-16	15	16	18	18	18	18	18
Nigeria	6-11	12	12					
Pakistan	not compulsory	12/10						
Romania	6-16	16	14	18	16/15	18	23	18
South Africa	7-14	none	7/10					
Spain	6-15	16	16			18	18	18
Switzerland	6-15	15	15					
Thailand	7-15	none	16					
United Kingdom	5-16	16	14	16	16	18	21	21
United States	7-16	16						
Yugoslavia	7-15	15	16	18	18	18	18	18
Zaire	6-11	16	16					

Source: the data are taken from UNESCO Yearbooks, information supplied to the ILO on the implementation of its conventions and recommendations and states reports to the United Nations on the implementation of Human Rights Covenants.

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THE CONVENTION ON THE RIGHTS OF THE CHILD
Adopted by the General Assembly of the United Nations on 20 Novembre 1989

Text

PREAMBLE

The States Parties to the present Convention,

Considering that in accordance with the principles proclaimed in the Charter of the United Nations, recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Bearing in mind that the peoples of the United Nations have, in the Charter, reaffirmed their faith in fundamental human rights and in the dignity and worth of the human person, and have determined to promote social progress and better standards of life in larger freedom,

Recognizing that the United Nations has, in the Universal Declaration of Human Rights and in the International Covenants on Human Rights, proclaimed and agreed that everyone is entitled to all the rights and freedoms set forth therein, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status,

Recalling that, in the Universal Declaration of Human Rights, the United Nations has proclaimed that childhood is entitled to special care and assistance,

Convinced that the family, as the fundamental group of society and the natural environment for the growth and well-being of all its members and particularly children, should be afforded the necessary protection and assistance so that it can fully assume its responsibilities within the community,

Recognizing that the child, for the full and harmonious development of his or her personality, should grow up in a family environment, in an atmosphere of happiness, love and understanding,

Considering that the child should be fully prepared to live an individual life in society, and brought up in the spirit of the ideals proclaimed in the Charter of the United Nations, and in particular in the spirit of peace, dignity, tolerance, freedom, equality and solidarity,

Bearing in mind that the need for extending particular

Unofficial summary of main provisions

PREAMBLE

The preamble: recalls the basic principles of the United Nations and specific provisions of certain relevant human rights treaties and proclamations; reaffirms the fact that children, because of their vulnerability, need special care and protection; and places special emphasis on the primary caring and protective responsibility of the family, the need for legal and other protection of the child before and after birth, the importance of respect for the cultural values of the child's community, and the vital role of international cooperation in achieving the realization of children's rights.

care to the child has been stated in the Geneva Declaration on the Rights of the Child of 1924 and in the Declaration of the Rights of the Child adopted by the United Nations in 1959 and recognized in the Universal Declaration of Human Rights, in the International Covenant on Civil and Political Rights (in particular in articles 23 and 24), in the International Covenant on Economic, Social and Cultural Rights (in particular in its article 10) and in the statutes and relevant instruments of specialized agencies and international organizations concerned with the welfare of children,

Bearing in mind that, as indicated in the Declaration of the Rights of the Child adopted by the General Assembly of the United Nations on 20 November 1959, "the child, by reason of his physical and mental immaturity, needs special safeguards and care, including appropriate legal protection, before as well as after birth",

Recalling the provisions of the Declaration on Social and Legal Principles relating to the Protection and Welfare of Children, with Special Reference to Foster Placement and Adoption Nationally and Internationally (General Assembly Resolution 41/85 of 3 December 1986); the United Nations Standard Minimum Rules for the Administration of Juvenile Justice ("The Beijing Rules") (General Assembly Resolution 40/33 of 29 November 1985); and the Declaration on the Protection of Women and Children in Emergency and Armed Conflict (General Assembly Resolution 3318 (XXIX) of 14 December 1974),

Recognizing that in all countries in the world there are children living in exceptionally difficult conditions, and that such children need special consideration,

Taking due account of the importance of the traditions and cultural values of each people for the protection and harmonious development of the child,

Recognizing the importance of international cooperation for improving the living conditions of children in every country, in particular in the developing countries,

Have agreed as follows:

THE CONVENTION ON THE RIGHTS OF THE CHILD

Text	*Unofficial summary of main provisions*
PART I	
Article 1 For the purposes of the present Convention a child means every human being below the age of 18 years unless, under the law applicable to the child, majority is attained earlier.	**Definition of a child** *All persons under 18, unless majority is attained at an earlier age.*
Article 2 1. The States Parties to the present Convention shall respect and ensure the rights set forth in this Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status. 2. States Parties shall take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child's parents, legal guardians, or family members.	**Non-discrimination** *The principle that all rights apply to all children without exception, and the State's obligation to protect children from any form of discrimination.*
Article 3 1. In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration. 2. States Parties undertake to ensure the child such protection and care as is necessary for his or her well-being, taking into account the rights and duties of his or her parents, legal guardians, or other individuals legally responsible for him or her, and, to this end, shall take all appropriate legislative and administrative measures. 3. States Parties shall ensure that the institutions, services and facilities responsible for the care or protection of children shall conform with the standards established by competent authorities, particularly in the areas of safety, health, in the number and suitability of their staff as well as competent supervision.	**Best interests of the child** *All measures directed at the child are to be based in particular on the latter's best interests. The State is to provide adequate care when parents or others responsible fail to do so.*

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THE CONVENTION ON THE RIGHTS OF THE CHILD

Text	*Unofficial summary of main provisions*
Article 4 States Parties shall undertake all appropriate legislative, administrative, and other measures, for the implementation of the rights recognized in this Convention. In regard to economic, social and cultural rights, States Parties shall undertake such measures to the maximum extent of their available resources and, where needed, within the framework of international co-operation.	**Implementation of rights** *The State's obligation to translate the rights in the Convention into reality.*
Article 5 States Parties shall respect the responsibilities, rights, and duties of parents or, where applicable, the members of the extended family or community as provided for by the local custom, legal guardians or other persons legally responsible for the child, to provide, in a manner consistent with the evolving capacities of the child, appropriate direction and guidance in the exercise by the child of the rights recognized in the present Convention.	**Parental guidance and the child's evolving capacities** *The State's duty to respect the rights and responsibilities of parents and the wider family to provide guidance appropriate to the child's evolving capacities.*
Article 6 1. States Parties recognize that every child has the inherent right to life. 2. States Parties shall ensure to the maximum extent possible the survival and development of the child.	**Survival and development** *The inherent right to life, and the State's obligation to ensure the child's survival and development.*
Article 7 1. The child shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality, and, as far as possible, the right to know and be cared for by his or her parents. 2. States Parties shall ensure the implementation of these rights in accordance with their national law and their obligations under the relevant international instruments in this field, in particular where the child would otherwise be stateless.	**Name and nationality** *The right to have a name from birth and to be granted a nationality.*
Article 8 1. States Parties undertake to respect the right of the child to preserve his or her identity, including nationality, name and family relations as recognized by law without unlawful interference. 2. Where a child is illegally deprived of some or all of the elements of his or her identity, States Parties shall	**Preservation of identity** *The State's obligation to protect and, if necessary, re-establish the basic aspects of a child's identity (name, nationality and family ties).*

provide appropriate assistance and protection, with a view to speedily re-establishing his or her identity.

Article 9

1. States Parties shall ensure that a child shall not be separated from his or her parents against their will, except when competent authorities subject to judicial review determine, in accordance with applicable law and procedures, that such separation is necessary for the best interests of the child. Such determination may be necessary in a particular case such as one involving abuse or neglect of the child by the parents, or one where the parents are living separately and a decision must be made as to the child's place of residence.

2. In any proceedings pursuant to paragraph 1, all interested parties shall be given an opportunity to participate in the proceedings and make their views known.

3. States Parties shall respect the right of the child who is separated from one or both parents to maintain personal relations and direct contact with both parents on a regular basis, except if it is contrary to the child's best interests.

4. Where such separation results from any action initiated by a State Party, such as the detention, imprisonment, exile, deportation or death (including death arising from any cause while the person is in the custody of the State) of one or both parents or of the child, that State Party shall, upon request, provide the parents, the child or, if appropriate, another member of the family with the essential information concerning the whereabouts of the absent member(s) of the family unless the provision of the information would be detrimental to the well-being of the child. States Parties shall further ensure that the submission of such a request shall of itself entail no adverse consequences for the person(s) concerned.

Article 10

1. In accordance with the obligation of States Parties under article 9, paragraph 1, applications by a child or his or her parents to enter or leave a State Party for the purpose of family reunification shall be dealt with by States Parties in a positive, humane and expeditious manner. States Parties shall further ensure that the submission of such a request shall entail no adverse consequences for the applicants and for the members of

Separation from parents

The child's right to live with his/her parents unless this is deemed incompatible with his/her best interests; the right to maintain contact with both parents if separated from one or both; the duties of States in cases where such separation results from State action.

Family reunification

The right of children and their parents to leave any country and to enter their own in order to be reunited or to maintain the child-parent relationship.

Text

Unofficial summary of main provisions

their family.

2. A child whose parents reside in different States shall have the right to maintain on a regular basis save in exceptional circumstances personal relations and direct contacts with both parents. Towards that end and in accordance with the obligation of States Parties under article 9, paragraph 1, States Parties shall respect the right of the child and his or her parents to leave any country, including their own, and to enter their own country. The right to leave any country shall be subject only to such restrictions as are prescribed by law and which are necessary to protect the national security, public order *(ordre public)*, public health or morals or the rights and freedoms of others and are consistent with the other rights recognized in the present Convention.

Article 11

1. States Parties shall take measures to combat the illicit transfer and non-return of children abroad.

2. To this end, States Parties shall promote the conclusion of bilateral or multilateral agreements or accession to existing agreements.

Illicit transfer and non-return

The State's obligation to prevent and to remedy the kidnapping or retention of children abroad by a parent or third party.

Article 12

1. States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.

2. For this purpose, the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law.

The child's opinion

The child's right to express an opinion, and to have that opinion taken into account, in any matter or procedure affecting the child.

Article 13

1. The child shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of the child's choice.

2. The exercise of this right may be subject to certain restrictions, but these shall only be such as are provided

Freedom of expression

The child's right to make known, by any means and anywhere, his/her feelings and views, unless this would violate the rights of others.

Text

by law and are necessary:
(a) for respect of the rights or reputations of others; or
(b) for the protection of national security or of public order *(ordre public)*, or of public health or morals.

Article 14

1. States Parties shall respect the right of the child to freedom of thought, conscience and religion.

2. States Parties shall respect the rights and duties of the parents and, when applicable, legal guardians, to provide direction to the child in the exercise of his or her right in a manner consistent with the evolving capacities of the child.

3. Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others.

Article 15

1. States Parties recognize the rights of the child to freedom of association and to freedom of peaceful assembly.

2. No restrictions may be placed on the exercise of these rights other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order *(ordre public)*, the protection of public health or morals or the protection of the rights and freedoms of others.

Article 16

1. No child shall be subjected to arbitrary or unlawful interference with his or her privacy, family, home or correspondence, nor to unlawful attacks on his or her honour and reputation.

2. The child has the right to the protection of the law against such interference or attacks.

Article 17

States Parties recognize the important function performed by the mass media and shall ensure that the child has access to information and material from a diversity of national and international sources, especial-

Unofficial summary of main provisions

Freedom of thought, conscience and religion

The child's right to freedom of thought, conscience and religion, subject to appropriate parental guidance and national law.

Freedom of association

The right of children to meet together and to join or set up associations, unless the fact of doing so violates the rights of others.

Protection of privacy

The right to protection from interference with privacy, family, home and correspondence, and from libel/slander.

Access to appropriate information

role of the media in disseminating information to children that is

Text

ly those aimed at the promotion of his or her social, spiritual and moral well-being and physical and mental health. To this end, States Parties shall:

(a) Encourage the mass media to disseminate information and material of social and cultural benefit to the child and in accordance with the spirit of article 29;

(b) Encourage international co-operation in the production, exchange and dissemination of such information and material from a diversity of cultural, national and international sources;

(c) Encourage the production and dissemination of children's books;

(d) Encourage the mass media to have particular regard to the linguistic needs of the child who belongs to a minority group or who is indigenous;

(e) Encourage the development of appropriate guidelines for the protection of the child from information and material injurious to his or her well-being bearing in mind the provisions of articles 13 and 18.

Article 18

1. States Parties shall use their best efforts to ensure recognition of the principle that both parents have common responsibilities for the upbringing and development of the child. Parents or, as the case may be, legal guardians, have the primary responsibility for the upbringing and development of the child. The best interests of the child will be their basic concern.

2. For the purpose of guaranteeing and promoting the rights set forth in this Convention, States Parties shall render appropriate assistance to parents and legal guardians in the performance of their child-rearing responsibilities and shall ensure the development of institutions, facilities and services for the care of children.

3. States Parties shall take all appropriate measures to ensure that children of working parents have the right to benefit from child care services and facilities for which they are eligible.

Article 19

1. States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.

Unofficial summary of main provisions

consistent with moral well-being and knowledge and understanding among peoples, and respects the child's cultural background. The State is to take measures to encourage this and to protect children from harmful materials.

Parental responsibilities

The principle that both parents have joint primary responsibility for bringing up their children, and that the State should support them in this task.

Protection from abuse and neglect

The State's obligation to protect children from all forms of maltreatment perpetrated by parents or others responsible for their care, and to undertake preventive

Text

2. Such protective measures should, as appropriate, include effective procedures for the establishment of social programmes to provide necessary support for the child and for those who have the care of the child, as well as for other forms of prevention and for identification, reporting, referral, investigation, treatment, and follow-up of instances of child maltreatment described heretofore, and, as appropriate, for judicial involvement.

Article 20

1. A child temporarily or permanently deprived of his or her family environment, or in whose own best interests cannot be allowed to remain in that environment, shall be entitled to special protection and assistance provided by the State.

2. States Parties shall in accordance with their national laws ensure alternative care for such a child.

3. Such care could include, inter alia, foster placement, Kafala of Islamic law, adoption, or if necessary placement in suitable institutions for the care of children. When considering solutions, due regard shall be paid to the desirability of continuity in a child's upbringing and to the child's ethnic, religious, cultural and linguistic background.

Article 21

States Parties which recognize and/or permit the system of adoption shall ensure that the best interests of the child shall be the paramount consideration and they shall:
(a) ensure that the adoption of a child is authorized only by competent authorities who determine, in accordance with applicable law and procedures and on the basis of all pertinent and reliable information, that the adoption is permissible in view of the child's status concerning parents, relatives and legal guardians and that, if required, the persons concerned have given their informed consent to the adoption on the basis of such counselling as may be necessary;
(b) recognize that intercountry adoption may be considered as an alternative means of child's care, if the child cannot be placed in a foster or an adoptive family or cannot in any suitable manner be cared for in the child's country of origin;
(c) ensure that the child concerned by intercountry adoption enjoys safeguards and standards equivalent to those existing in the case of national adoption;
(d) take all appropriate measures to ensure that, in

Unofficial summary of main provisions

and treatment programmes in this regard.

Protection of children without families

The State's obligation to provide special protection for children deprived of their family environment and to ensure that appropriate alternative family care or institutional placement is made available to them, taking into account the child's cultural background.

Adoption

In countries where adoption is recognized and/or allowed, it shall only be carried out in the best interests of the child, with all necessary safeguards regarding the admissibility of this solution for a given child and authorization by the competent authorities.

Text	*Unofficial summary of main provisions*
intercountry adoption, the placement does not result in improper financial gain for those involved in it; *(e)* promote, where appropriate, the objectives of this article by concluding bilateral or multilateral arrangements or agreements, and endeavour, within this framework, to ensure that the placement of the child in another country is carried out by competent authorities or organs.	
Article 22	**Refugee children**
1. States Parties shall take appropriate measures to ensure that a child who is seeking refugee status or who is considered a refugee in accordance with applicable international or domestic law and procedures shall, whether unaccompanied or accompanied by his or her parents or by any other person, receive appropriate protection and humanitarian assistance in the enjoyment of applicable rights set forth in this Convention and in other international human rights or humanitarian instruments to which the said States are Parties.	*Special protection to be granted to children who are refugees or seeking refugee status, and the State's obligation to cooperate with competent organizations providing such protection and assistance.*
2. For this purpose, States Parties shall provide, as they consider appropriate, cooperation in any efforts by the United Nations and other competent intergovernmental organizations or non-governmental organizations co-operating with the United Nations to protect and assist such a child and to trace the parents or other members of the family of any refugee child in order to obtain information necessary for reunification with his or her family. In cases where no parents or other members of the family can be found, the child shall be accorded the same protection as any other child permanently or temporarily deprived of his or her family environment for any reason, as set forth in the present Convention.	
Article 23	**Handicapped children**
1. States Parties recognize that a mentally or physically disabled child should enjoy a full and decent life, in conditions which ensure dignity, promote self-reliance, and facilitate the child's active participation in the community.	*The right of handicapped children to special care, education and training designed to help them to achieve greatest possible self-reliance and to lead a full and active life in society.*
2. States Parties recognize the right of the disabled child to special care and shall encourage and ensure the extension, subject to available resources, to the eligible child and those responsible for his or her care, of assistance for which application is made and which is appropriate to the child's condition and to the circumstances of the parents or others caring for the child.	

3. Recognizing the special needs of a disabled child, assistance extended in accordance with paragraph 2 shall be provided free of charge, whenever possible, taking into account the financial resources of the parents or others caring for the child, and shall be designed to ensure that the disabled child has effective access to and receives education, training, health care services, rehabilitation services, preparation for employment and recreation opportunities in a manner conducive to the child's achieving the fullest possible social integration and individual development, including his or her cultural and spiritual development.

4. States Parties shall promote in the spirit of international co-operation the exchange of appropriate information in the field of preventive health care and of medical, psychological and functional treatment of disabled children, including dissemination of and access to information concerning methods of rehabilitation education and vocational services, with the aim of enabling States Parties to improve their capabilities and skills and to widen their experience in these areas. In this regard, particular account shall be taken of the needs of developing countries.

Article 24

1. States Parties recognize the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health. States Parties shall strive to ensure that no child is deprived of his or her right of access to such health care services.

2. States Parties shall pursue full implementation of this right and, in particular, shall take appropriate measures:
(a) to diminish infant and child mortality,
(b) to ensure the provision of necessary medical assistance and health care to all children with emphasis on the development of primary health care,
(c) to combat disease and malnutrition including within the framework of primary health care, through inter alia the application of readily available technology and through the provision of adequate nutritious foods and clean drinking water, taking into consideration the dangers and risks of environmental pollution,
(d) to ensure appropriate pre- and post-natal health care for mothers,
(e) to ensure that all segments of society, in particular parents and children, are informed, have access to education and are supported in the use of, basic knowledge of child health and nutrition, the advantages of

Health and health services

The right of children to enjoy the highest level of health possible and to have access to health and medical services, with special emphasis on primary and preventive health care, public health education and the diminution of infant mortality. The State's obligation to work towards the abolition of harmful traditional practices.

Text

breast-feeding, hygiene and environmental sanitation and the prevention of accidents,
(f) to develop preventive health care, guidance for parents, and family planning education and services.

3. States Parties shall take all effective and appropriate measures with a view to abolishing traditional practices prejudicial to the health of children.

4. States Parties undertake to promote and encourage international co-operation with a view to achieving progressively the full realization of the right recognized in this article. In this regard, particular account shall be taken of the needs of developing countries.

Article 25

States Parties recognize the right of a child who has been placed by the competent authorities for the purposes of care, protection, or treatment of his or her physical or mental health, to a periodic review of the treatment provided to the child and all other circumstances relevant to his or her placement.

Article 26

1. States Parties shall recognize for every child the right to benefit from social security, including social insurance, and shall take the necessary measures to achieve the full realization of this right in accordance with their national law.

2. The benefits should, where appropriate, be granted taking into account the resources and the circumstances of the child and persons having responsibility for the maintenance of the child as well as any other consideration relevant to an application for benefits made by or on behalf of the child.

Article 27

1. States Parties recognize the right of every child to a standard of living adequate for the child's physical, mental, spiritual, moral and social development.

2. The parent(s) or others responsible for the child have the primary responsibility to secure, within their abilities and financial capacities, the conditions of living necessary for the child's development.

3. States Parties in accordance with national conditions and within their means shall take appropriate measures

Unofficial summary of main provisions

Periodic review of placement

The right of children placed by the State for reasons of care, protection or treatment to have all aspects of that placement evaluated regularly.

Social security

The right of children to benefit from social security.

Standard of living

The right of children to benefit from an adequate standard of living, the primary responsibility of parents to provide this, and the State's duty to ensure that this responsibility is first fulfillable and then fulfilled, where necessary through the recovery of maintenance.

Text

to assist parents and others responsible for the child to implement this right and shall in case of need provide material assistance and support programmes, particularly with regard to nutrition, clothing and housing.

4. States Parties shall take all appropriate measures to secure the recovery of maintenance for the child from the parents or other persons having financial responsibility for the child, both within the State Party and from abroad. In particular, where the person having financial responsibility for the child lives in a State different from that of the child, States Parties shall promote the accession to international agreements or the conclusion of such agreements as well as the making of other appropriate arrangements.

Article 28

1. States Parties recognize the right of the child to education, and with a view to achieving this right progressively and on the basis of equal opportunity, they shall, in particular:
(a) make primary education compulsory and available free to all;
(b) encourage the development of different forms of secondary education, including general and vocational education, make them available and accessible to every child, and take appropriate measures such as the introduction of free education and offering financial assistance in case of need;
(c) make higher education accessible to all on the basis of capacity by every appropriate means;
(d) make educational and vocational information and guidance available and accessible to all children;
(e) take measures to encourage regular attendance at schools and the reduction of drop-out rates.

2. States Parties shall take all appropriate measures to ensure that school discipline is administered in a manner consistent with the child's human dignity and in conformity with the present Convention.

3. States Parties shall promote and encourage international co-operation in matters relating to education, in particular with a view to contributing to the elimination of ignorance and illiteracy throughout the world and facilitating access to scientific and technical knowledge and modern teaching methods. In this regard, particular account shall be taken of the needs of developing countries.

Unofficial summary of main provisions

Education

The child's right to education, and the State's duty to ensure that primary education at least is made free and compulsory. Administration of school discipline is to reflect the child's human dignity.

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Text	*Unofficial summary of main provisions*
Article 29 1. States Parties agree that the education of the child shall be directed to: *(a)* the development of the child's personality, talents and mental and physical abilities to their fullest potential; *(b)* the development of respect for human rights and fundamental freedoms, and for the principles enshrined in the Charter of the United Nations; *(c)* the development of respect for the child's parents, his or her own cultural identity, language and values, for the national values of the country in which the child is living, the country from which he or she may originate, and for civilizations different from his or her own; *(d)* the preparation of the child for responsible life in a free society, in the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples, ethnic, national and religious groups and persons of indigenous origin; *(e)* the development of respect for the natural environment. 2. No part of this article or article 28 shall be construed so as to interfere with the liberty of individuals and bodies to establish and direct educational institutions, subject always to the observance of the principles set forth in paragraph 1 of this article and to the requirements that the education given in such institutions shall conform to such minimum standards as may be laid down by the State.	**Aims of education** *The State's recognition that education should be directed at developing the child's personality and talents, preparing the child for active life as an adult, fostering respect for basic human rights and developing respect for the child's own cultural and national values and those of others.*
Article 30 In those States in which ethnic, religious or linguistic minorities or persons of indigenous origin exist, a child belonging to such a minority or who is indigenous shall not be denied the right, in community with other members of his or her group, to enjoy his or her own culture, to profess and practice his or her own religion, or to use his or her own language.	**Children of minorities or indigenous populations** *The right of children of minority communities and indigenous populations to enjoy their own culture and to practice their own religion and language.*
Article 31 1. States Parties recognize the right of the child to rest and leisure, to engage in play and recreational activities appropriate to the age of the child and to participate freely in cultural life and the arts. 2. States Parties shall respect and promote the right of the child to fully participate in cultural and artistic life and shall encourage the provision of appropriate and	**Leisure, recreation and cultural activities** *The right of children to leisure, play and participation in cultural and artistic activities.*

equal opportunities for cultural, artistic, recreational and leisure activity.

Article 32

1. States Parties recognize the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development.

2. States Parties shall take legislative, administrative, social and educational measures to ensure the implementation of this article. To this end, and having regard to the relevant provisions of other international instruments, States Parties shall in particular:
(a) provide for a minimum age or minimum ages for admissions to employment;
(b) provide for appropriate regulation of the hours and conditions of employment; and
(c) provide for appropriate penalties or other sanctions to ensure the effective enforcement of this article.

Child labour

The State's obligation to protect children from engaging in work that constitutes a threat to their health, education or development, to set minimum ages for employment, and to regulate conditions of employment.

Article 33

States Parties shall take all appropriate measures, including legislative, administrative, social and educational measures, to protect children from the illicit use of narcotic drugs and psychotropic substances as defined in the relevant international treaties, and to prevent the use of children in the illicit production and trafficking of such substances.

Drug abuse

The child's right to protection from the use of narcotic and psychotropic drugs and from being involved in their production or distribution.

Article 34

States Parties undertake to protect the child from all forms of sexual exploitation and sexual abuse. For these purposes States Parties shall in particular take all appropriate national, bilateral and multilateral measures to prevent:
(a) the inducement or coercion of a child to engage in any unlawful sexual activity;
(b) the exploitative use of children in prostitution or other unlawful sexual practices;
(c) the exploitative use of children in pornographic performances and materials.

Sexual exploitation

The child's right to protection from sexual exploitation and abuse, including prostitution and involvement in pornography.

Text

Article 35

States Parties shall take all appropriate national, bilateral and multilateral measures to prevent the abduction, the sale of or traffic in children for any purpose or in any form.

Article 36

States Parties shall protect the child against all other forms of exploitation prejudicial to any aspects of the child's welfare.

Article 37

States Parties shall ensure that:
(a) No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment. Neither capital punishment nor life imprisonment without possibility of release shall be imposed for offences committed by persons below 18 years of age;
(b) No child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time;
(c) Every child deprived of liberty shall be treated with humanity and respect for the inherent dignity of the human person, and in a manner which takes into account the needs of persons of their age. In particular every child deprived of liberty shall be separated from adults unless it is considered in the child's best interest not to do so and shall have the right to maintain contact with his or her family through correspondence and visits, save in exceptional circumstances;
(d) Every child deprived of his or her liberty shall have the right to prompt access to legal and other appropriate assistance as well as the right to challenge the legality of the deprivation of his or her liberty before a court or other competent, independent and impartial authority and to a prompt decision on any such action.

Article 38

1. States Parties undertake to respect and to ensure respect for rules of international humanitarian law applicable to them in armed conflicts which are relevant to the child.

Unofficial summary of main provisions

Sale, trafficking and abduction

The State's obligation to make every effort to prevent the sale, trafficking and abduction of children.

Other forms of exploitation

The child's right to protection from all other forms of exploitation not covered in articles 32, 33, 34 and 35.

Torture and deprivation of liberty

The prohibition of torture, cruel treatment or punishment, capital punishment, life imprisonment, and unlawful arrest or deprivation of liberty. The principles of appropriate treatment, separation from detained adults, contact with family and access to legal and other assistance.

Armed conflicts

The principle that no child under 15 take a direct part in hostilities or be recruited into the armed forces, and that all children affected by armed conflict benefit

Text

2. States Parties shall take all feasible measures to ensure that persons who have not attained the age of 15 years do not take a direct part in hostilities.

3. States Parties shall refrain from recruiting any person who has not attained the age of 15 years into their armed forces. In recruiting among those persons who have attained the age of 15 years but who have not attained the age of 18 years, States Parties shall endeavour to give priority to those who are oldest.

4. In accordance with their obligations under international humanitarian law to protect the civilian population in armed conflicts, States Parties shall take all feasible measures to ensure protection and care of children who are affected by an armed conflict.

Article 39

States Parties shall take all appropriate measures to promote physical and psychological recovery and social re-integration of a child victim of: any form of neglect, exploitation, or abuse; torture or any other form of cruel, inhuman or degrading treatment or punishment; or armed conflicts. Such recovery and re-integration shall take place in an environment which fosters the health, self-respect and dignity of the child.

Article 40

1. States Parties recognize the right of every child alleged as, accused of, or recognized as having infringed the penal law to be treated in a manner consistent with the promotion of the child's sense of dignity and worth, which reinforces the child's respect for the human rights and fundamental freedoms of others and which takes into account the child's age and the desirability of promoting the child's re-integration and the child's assuming a constructive role in society.

2. To this end, and having regard to the relevant provisions of international instruments, States Parties shall, in particular, ensure that:
(a) No child shall be alleged as, be accused of, or recognized as having infringed the penal law by reason of acts or omissions which were not prohibited by national or international law at the time they were committed;
(b) Every child alleged as or accused of having infringed the penal law has at least the following guarantees:
- (i) to be presumed innocent until proven guilty according to law;

Unofficial summary of main provisions

from protection and care.

Rehabilitative care

The State's obligation to ensure that child victims of armed conflicts, torture, neglect, maltreatment or exploitation receive appropriate treatment for their recovery and social re-integration.

Administration of juvenile justice

The right of children alleged or recognized as having committed an offence to respect for their global human rights and, in particular, to benefit from all aspects of the due process of law, including legal or other assistance in preparing and presenting their defence. The principle that, wherever possible, recourse to judicial proceedings and institutional placements should be avoided.

(ii) to be informed promptly and directly of the charges against him or her, and if appropriate through his or her parents or legal guardian, and to have legal or other appropriate assistance in the preparation and presentation of his or her defence;

(iii) to have the matter determined without delay by a competent, independent and impartial authority or judicial body in a fair hearing according to law, in the presence of legal or other appropriate assistance and, unless it is considered not to be in the best interest of the child, in particular, taking into account his or her age or situation, his or her parents or legal guardians;

(iv) not to be compelled to give testimony or to confess guilt; to examine or have examined adverse witnesses and to obtain the participation and examination of witnesses on his or her behalf under conditions of equality;

(v) if considered to have infringed the penal law, to have this decision and any measures imposed in consequence thereof reviewed by a higher competent, independent and impartial authority or judicial body according to law;

(vi) to have the free assistance of an interpreter if the child cannot understand or speak the language used;

(vii) to have his or her privacy fully respected at all stages of the proceedings.

3. States Parties shall seek to promote the establishment of laws, procedures, authorities and institutions specifically applicable to children alleged as, accused of, or recognized as having infringed the penal law, and in particular:
(a) the establishment of a minimum age below which children shall be presumed not to have the capacity to infringe the penal law;
(b) whenever appropriate and desirable, measures for dealing with such children without resorting to judicial proceedings, providing that human rights and legal safeguards are fully respected.

4. A variety of dispositions, such as care, guidance and supervision orders; counselling; probation; foster care; education and vocational training programmes and other alternatives to institutional care shall be available to ensure that children are dealt with in a manner appropriate to their well-being and proportionate both to their circumstances and the offence.

THE CONVENTION ON THE RIGHTS OF THE CHILD

Text

Article 41

Nothing in this Convention shall affect any provisions that are more conducive to the realization of the rights of the child and that may be contained in:
(a) the law of a State Party; or
(b) international law in force for that State.

PART II

Article 42

States Parties undertake to make the principles and provisions of the Convention widely known, by appropriate and active means, to adults and children alike.

Article 43

1. For the purpose of examining the progress made by States Parties in achieving the realization of the obligations undertaken in the present Convention, there shall be established a Committee on the Rights of the Child, which shall carry out the functions hereinafter provided.

2. The Committee shall consist of 10 experts of high moral standing and recognized competence in the field covered by this Convention. The members of the Committee shall be elected by States Parties from among their nationals and shall serve in their personal capacity, consideration being given to equitable geographical distribution as well as to the principal legal systems.

3. The members of the Committee shall be elected by secret ballot from a list of persons nominated by States Parties. Each State Party may nominate one person from among its own nationals.

4. The initial election to the Committee shall be held no later than six months after the date of the entry into force of the present Convention and thereafter every second year. At least four months before the date of each election, the Secretary-General of the United Nations shall address a letter to States Parties inviting them to submit their nominations within two months. The Secretary-General shall subsequently prepare a list in alphabetical order of all persons thus nominated, indicating States Parties which have nominated them, and shall submit it to the States Parties to the present Convention.

Unofficial summary of main provisions

Respect for existing standards

The principle that, if any standards set in national law or other applicable international instruments are higher than those of this Convention, it is the higher standard that applies.

Implementation and entry into force

The provisions of articles 42 - 54 notably foresee:

(i) the State's obligation to make the rights contained in this Convention widely known to both adults and children.

(ii) the setting up of a Committee on the Rights of the Child composed of ten experts, which will consider reports that States Parties to the Convention are to submit two years after ratification and every five years thereafter. The Convention enters into force—and the Committee would therefore be set up—once 20 countries have ratified it.

(iii) States Parties are to make their reports widely available to the general public.

(iv) The Committee may propose that special studies be undertaken on specific issues relating to the rights of the child, and may make its evaluations known to each State Party concerned as well as to the UN General Assembly.

(v) In order to "foster the effective implementation of the Convention and to encourage international cooperation", the specialized agencies of the UN (such as the ILO, WHO and UNESCO) and

Text

5. The elections shall be held at meetings of States Parties convened by the Secretary-General at United Nations Headquarters. At those meetings, for which two-thirds of States Parties shall constitute a quorum, the persons elected to the Committee shall be those who obtain the largest number of votes and an absolute majority of the votes of the representatives of States Parties present and voting.

6. The members of the Committee shall be elected for a term of four years. They shall be eligible for re-election if renominated. The term of five of the members elected at the first election shall expire at the end of two years; immediately after the first election the names of these five members shall be chosen by lot by the Chairman of the meeting.

7. If a member of the Committee dies or resigns or declares that for any other cause he or she can no longer perform the duties of the Committee, the State Party which nominated the member shall appoint another expert from among its nationals to serve for the remainder of the term, subject to the approval of the Committee.

8. The Committee shall establish its own rules of procedure.

9. The Committee shall elect its officers for a period of two years.

10. The meetings of the Committee shall normally be held at the United Nations Headquarters or at any other convenient place as determined by the Committee. The Committee shall normally meet annually. The duration of the meetings of the Committee shall be determined, and reviewed, if necessary, by a meeting of the States Parties to the present Convention, subject to the approval of the General Assembly.

11. The Secretary-General of the United Nations shall provide the necessary staff and facilities for the effective performance of the functions of the Committee under the present Convention.

12. With the approval of the General Assembly, the members of the Committee established under the present Convention shall receive emoluments from the United Nations resources on such terms and conditions as the Assembly may decide.

Unofficial summary of main provisions

UNICEF would be able to attend the meetings of the Committee. Together with any other body recognized as "competent", including NGOs in consultative status with the UN and UN organs such as the UNHCR, they can submit pertinent information to the Committee and be asked to advise on the optimal implementation of the Convention.

Text

Unofficial summary of main provisions

Article 44

1. States Parties undertake to submit to the Committee, through the Secretary-General of the United Nations, reports on the measures they have adopted which give effect to the rights recognized herein and on the progress made on the enjoyment of those rights:
(a) within two years of the entry into force of the Convention for the State Party concerned,
(b) thereafter every five years.

2. Reports made under this article shall indicate factors and difficulties, if any, affecting the degree of fulfilment of the obligations under the present Convention. Reports shall also contain sufficient information to provide the Committee with a comprehensive understanding of the implementation of the Convention in the country concerned.

3. A State Party which has submitted a comprehensive initial report to the Committee need not in its subsequent reports submitted in accordance with paragraph 1(b) repeat basic information previously provided.

4. The Committee may request from States Parties further information relevant to the implementation of the Convention.

5. The Committee shall submit to the General Assembly of the United Nations through the Economic and Social Council, every two years, reports on its activities.

6. States Parties shall make their reports widely available to the public in their own countries.

Article 45

In order to foster the effective implementation of the Convention and to encourage international co-operation in the field covered by the Convention:
(a) The specialized agencies, UNICEF and other United Nations organs shall be entitled to be represented at the consideration of the implementation of such provisions of the present Convention as fall within the scope of their mandate. The Committee may invite the specialized agencies, UNICEF and other competent bodies as it may consider appropriate to provide expert advice on the implementation of the Convention in areas falling within the scope of their respective mandates. The Committee may invite the specialized agencies, UNICEF and other United Nations organs to submit reports on the implementation of the Convention in areas falling

within the scope of their activities.

(b) The Committee shall transmit, as it may consider appropriate, to the specialized agencies, UNICEF and other competent bodies, any reports from States Parties that contain a request, or indicate a need, for technical advice or assistance along with the Committee's observations and suggestions, if any, on these requests or indications.

(c) the Committee may recommend to the General Assembly to request the Secretary-General to undertake on its behalf studies on specific issues relating to the rights of the child.

(d) the Committee may make suggestions and general recommendations based on information received pursuant to articles 44 and 45 of this Convention. Such suggestions and general recommendations shall be transmitted to any State Party concerned and reported to the General Assembly, together with comments, if any, from States Parties.

PART III

Article 46

The present Convention shall be open for signature by all States.

Article 47

The present Convention is subject to ratification. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.

Article 48

The present Convention shall remain open for accession by any State. The instruments of accession shall be deposited with the Secretary-General of the United Nations.

Article 49

1. The present Convention shall enter into force on the thirtieth day following the date of deposit with the Secretary-General of the United Nations of the twentieth instrument of ratification or accession.

2. For each State ratifying or acceding to the Convention after the deposit of the twentieth instrument of ratification or accession, the Convention shall enter into

force on the thirtieth day after the deposit by such State of its instrument of ratification or accession.

Article 50

1. Any State Party may propose an amendment and file it with the Secretary-General of the United Nations. The Secretary-General shall thereupon communicate the proposed amendment to States Parties with a request that they indicate whether they favour a conference of States Parties for the purpose of considering and voting upon the proposals. In the event that within four months from the date of such communication at least one-third of the States Parties favour such a conference, the Secretary-General shall convene the conference under the auspices of the United Nations. Any amendment adopted by a majority of States Parties present and voting at the conference shall be submitted to the General Assembly of the United Nations for approval.

2. An amendment adopted in accordance with paragraph (1) of this article shall enter into force when it has been approved by the General Assembly of the United Nations and accepted by a two-thirds majority of States Parties.

3. When an amendment enters into force, it shall be binding on those States Parties which have accepted it, other States Parties still being bound by the provisions of this Convention and any earlier amendments which they have accepted.

Article 51

1. The Secretary-General of the United Nations shall receive and circulate to all States the text of reservations made by States at the time of ratification or accession.

2. A reservation incompatible with the object and purpose of the present Convention shall not be permitted.

3. Reservations may be withdrawn at any time by notification to this effect addressed to the Secretary-General of the United Nations who shall then inform all States. Such notification shall take effect on the date on which it is received by the Secretary-General.

Article 52

A State Party may denounce this Convention by written notification to the Secretary-General of the United

Text

Unofficial summary of main provisions

Nations. Denunciation becomes effective one year after the date of receipt of the notification by the Secretary-General.

Article 53

The Secretary-General of the United Nations is designated as the depositary of the present Convention.

Article 54

The original of the present Convention, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.

In witness thereof the undersigned plenipotentiaries, being duly authorized thereto by their respective governments, have signed the present Convention.

UNIVERSITEIT GENT

CHILDREN'S RIGHTS CENTRE

The Children's Rights Centre was set up in 1978 and is directed by Prof. Dr. E. Verhellen.
The Centre devotes its attention to the *position* of children in our western society and this from a body of ideas which is not very dominant.

In the present social status of children their 'being immature', their 'being different' is stressed.
When one talks about the importance of socialization and education, about the necessity to train children to participate in modern society, one actually claims that children - as children - do not yet belong to this modern society (of adults).
Their status is a status of *"not-yet-being"*.
Although one often maintains that childhood is the most important phase in life, one actually intends the following: "seen in the light of the ultimate purpose: the stage of adulthood".
As a result of this, one paradoxically denies the fact that children have the right to respect for their proper, *present - and thus - young being*. One of the most pernicious consequences is that children and young people are deprived of their individuality.
In order to oppose this trend, children have to be re-approached and re-studied, from a *reevaluation* of their capacity and being.

One shifts the attention from individual children who are suppressed, to children/youngsters as social category, against a society which oppresses them.
The **Children's Rights Movement** turns the present status of the child as "not-yet-being" into an actual topic and pursues the recognition of *children and youth as fully-fledged participants to the social event*.

The social discussion does not really concern the point of departure that children are bearers of the same individual rights, the same human rights as other people, but it does concern the question whether children are capable and thus have the right to assert these rights independently. The central concept in this discussion is *competence*. The ever returning argument against autonomy as well as against children's rights is their supposed incapacity to make well-founded decisions. The Children's Rights Movement makes a great effort to dispute and refute this argument of incompetence.

The Children's Rights Centre wants to contribute to a larger, vast, broad social propagation of the children's rights idea by means of theoretical foundation and the establishment and stimulation of scientific research on children/youth and their rights.

All sectors and all situations where children are involved can be brought up for discussion, as well as various disciplines which have children as area for special attention/research.

A structural approach of the social reality is the central issue.

The Centre's activities are situated in the areas of **research, education** and **provision of services.**

A visit to the Centre is always possible. However, it is advisable to make an appointment in advance.

RESEARCH

The Centre's research activities have the task to encourage research, where children are considered as unit of research, and hence, which can be complementary to the existing research in various scientific disciplines (medicine, psychology, pedagogy, sociology, law etc.).

Its purpose is not only to carry out research itself in the various areas, but also to support and advise other researchers.

EDUCATION

Education is an important medium with regard to circulation and propagation of scientific insights.

The Centre wants to contribute actively so that fundamental scientific knowledge becomes indeed a full part of the courses and so that students within the framework of their training would be able to participate in the activities of the Centre.

One also pursues international exchanges and the increasing of the educational mobility via participation in Erasmus projects.

From 1990 onwards a postacademic course on the "Rights of the Child" is lectured.

PROVISION OF SERVICES

The main purpose of this Centre is not only to contribute to a new child study. It also wants to contribute actively to a broad social propagation of the research and the insights of this research via social service activities.
In this respect the Centre has already built up an important tradition. We can mention a.o.:

- the gathering, classifying and opening up of documentation and bringing it to the general public's disposal;
- to assist, help and advise people who ask for information;
- to provide publications;
- to organise and to participate in workshops, colloquia and conferences;
- to coordinate various study- and workgroups;
- project-consulting.

LIST OF PUBLICATIONS

Publications in English are marked (*)

Cahier 1: **G. De Bock; E. Verhellen; F. Spiesschaert:**
"Kindermishandeling"
1985, 300 p. + bijlagen, 400,- B.F.
(uitverkocht)

Cahier 2: **E. Verhellen; F. Spiesschaert:**
"Jongerenombudsfuncties"
1986, 190 p. + bijlagen, 250,- B.F.
(uitverkocht)

Cahier 3: **E. Verhellen**:
"Jeugdbescherming en Jeugdbeschermingsrecht"
1986, 497 p. + bijlagen, 550,- B.F.
(uitverkocht)

Cahier 4: **P. Arteel; L. Deneef; E. Verhellen:**
"Sensibilisering inzake kindermishandeling"
1987, 68 p. + bijlagen, 200,- B.F.

Cahier 5: **G. Cappelaere; C. Eliaerts, E. Verhellen:**
"Alternatieve sanctionering van jongeren"
1987, 350 p. + bijlagen, 600,- B.F.

Cahier 6: **(*) B. Franklin:**
"Ageïsm and the political economy of childhood / wimps and bullies: press reporting on child abuse"
1988, 111 p., 200,- B.F.

Cahier 7: **(*) R. Quiros:**
"The Ombudsman for children in Costa Rica / The Latin-American child and family network"
1989, 59 p., 200,- B.F.

Cahier 8: **E. Verhellen; L. Cattrijsse:**
"Internationaal, regionaal en nationaal beleid en de UNO-Conventie voor de Rechten van het Kind"
1990, 162 p., 350,- B.F.

Cahier 9: **G. Willems:**
"Een Parlementaire Kinderombudsman"
1991, 114 p., 300,- B.F.

Cahier 10: **E. Verhellen; G. Cappelaere:**
"Jeugdbescherming en Bijzondere Jeugdbijstand in Vlaanderen"
1991, 68 p. + bijlagen, 300,- B.F.

Cahier 11: **E. Verhellen (ed.):**
"Rechten van kinderen Lezingen-bundel"
Verzamelde lezingen naar aanleiding van de vrije cursus 'Rechten van kinderen', RUG, academiejaar 1990-1991.

Cahier 12: **E. Verhellen (ed.):**
"Rechten van het kind : Lezingen-bundel 2"
Verzamelde lezingen naar aanleiding van de vrije cursus 'Rechten van het Kind', UG, academiejaar 1991-1992.
1992, 207 p., 300,- B.F.

(*) E. Verhellen, F. Spiesschaert (eds.):
"Ombudswork for Children" A way of improving the position of children in society", Leuven, Acco, 1989, 1.260,- B.F.

"Verdrag inzake de Rechten van het Kind : Officiële Nederlandstalige tekst"
1992, 42 p., 100,- B.F.

These publications can be ordered at the Children's Rights Centre, Henri Dunantlaan 2, B-9000 Gent, Belgium